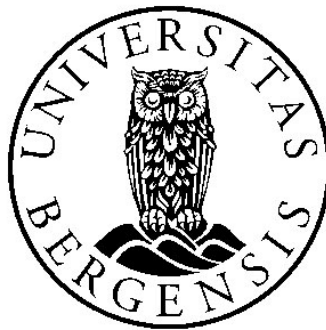


# The Implementation of the Dublin regulations in Greece, Italy and Spain

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## Abstract

The objective of this thesis is to explain variations in the implementation of the Dublin regulations in Spain, Italy and Greece. My theoretical framework draws from the literature on Europeanization. I have conducted qualitative document analysis and semi-structured interviews with experts in Brussels as well as in countries concerned. The analysis shows how the main variable to explain implementation of Dublin is state capacity, in other words how well the functioning of the national administrations are. Spain, where the state capacity is better than in the two other case countries, is where the implementation has been most successful. Another important variable is the number of asylum seekers. Spain receives the lowest number of asylum seekers compared to Italy and Greece. Italy is the member state with the highest number of arriving asylum seekers. While Greece receives fewer than Spain, it is still large when considering the country's population and GDP. The number of asylum seekers has become an even bigger concern in the light of the 2015 "influx" of migrants.

Misfit and veto players, two central variables in the Europeanization theory, are not able to explain the variation in implementation between Spain, Italy and Greece. When the Dublin convention was introduced, there was no substantial difference on misfit between the three countries. Making misfit obsolete when explaining variation in implementation. Moreover, I found no evidence of veto players hindering implementation in any of the case countries. The lack of opposition from veto players may be explained with the nature of the Dublin regulations. The legislations directly concerns the national government and asylum seekers. It does not directly affect regional administrations, business interests or organised labour, which typically play the role of veto players.

The Europeanization theory, although able to explain a variety of policy fields, is not able to explain variation in the implementation of the Dublin regulations. The "Worlds of compliance" typology suggested by Falkner et al, created to understand implementation traditions, does not fit the empirical evidence either. Instead, this thesis shows that state capacity in combination with the number of arriving asylum seekers are the best indicators to explain Spain's success and the difficulties in Italy and Greece with the implementation of the Dublin regulations.

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## Table of content

Abstract .....	ii
Acknowledgements .....	iii
Table of content.....	1
Tables, figures, maps and model .....	3
<b>1 Introduction .....</b>	<b>4</b>
<b>2 Theoretical framework .....</b>	<b>8</b>
2.1 Three generations of implementation theory .....	8
2.2 Europeanization theory .....	10
2.3 The misfit hypothesis .....	13
2.4 Veto players .....	15
2.5 State capacity .....	17
2.6 Forms of non-compliance .....	18
2.7 Worlds of compliance .....	19
2.8 Europeanization theory in asylum policy .....	21
2.9 Theoretical framework for explaining the Dublin regulations .....	22
<b>3 Methodology .....</b>	<b>26</b>
3.1 Multiple-case study .....	26
3.2 Cases .....	27
3.3 Variables .....	30
3.4 Data collection .....	35
3.4.1 Document analysis .....	35
3.4.2 Semi-structured interviews .....	36
3.5 Validity and reliability .....	38
<b>4 Empirical overview of EU asylum policy .....</b>	<b>41</b>
4.1 EU asylum policy .....	41
4.2 The Dublin regulations .....	43
<b>5 Spain .....</b>	<b>49</b>
5.1 Misfit and number of asylum seekers .....	50
5.2 Veto players .....	53
5.3 State capacity .....	54
<b>6 Italy .....</b>	<b>57</b>
6.1 Misfit and number of asylum seekers .....	58
6.2 Veto players .....	63
6.3 State capacity .....	64

<b>7 Greece.....</b>	<b>67</b>
7.1 Misfit and number of asylum seekers.....	67
7.2 Veto players.....	74
7.3 State capacity.....	75
<b>8 Comparison and discussion .....</b>	<b>79</b>
8.1 Revisiting the four Worlds of compliance.....	84
8.2 Limitations of the master thesis.....	86
<b>9 Conclusion.....</b>	<b>88</b>
9.1 Suggestions for further research.....	89
<b>Bibliography .....</b>	<b>91</b>
<b>Interviews.....</b>	<b>102</b>
<b>Appendix .....</b>	<b>103</b>

## Tables, figures, maps and model

### Tables

Table 1: Worlds of compliance typology .....	20
Table 2: Measurement of the dependent variable .....	32
Table 3: The dependent and independent variable .....	33
Table 4: Rate of outgoing Dublin requests and transfers 2015-2016.....	47
Table 5: The main components of the Dublin regulations .....	48
Table 6: Transfers of asylum seekers to and from Italy 1 January–30 November 2016.....	62
Table 7: Asylum seekers divided by population and GDP in 2015 .....	83

### Figures

Figure 1: Criteria determining responsibility for asylum seekers .....	45
Figure 2: Number of asylum seekers in Spain per year .....	50
Figure 3: Incoming transfer requests to Spain, submitted by other Dublin countries.....	52
Figure 4: Average Government Efficiency in OECD compared to Spain .....	54
Figure 5: Number of asylum seekers in Italy per year .....	58
Figure 6: Incoming transfer requests to Italy, submitted by other Dublin countries .....	60
Figure 7: Average Government Efficiency in OECD compared to Italy .....	64
Figure 8: Number of asylum seekers in Greece per year .....	68
Figure 9: Incoming transfer requests to Greece, submitted by other Dublin countries .....	70
Figure 10: Average Government Efficiency in OECD compared to Greece .....	75
Figure 11: Government efficiency in Italy, Greece, Spain, and the average in OECD .....	81
Figure 12: Total number of asylum seekers in Spain, Italy and Greece .....	82

### Maps

Map 1: The Spanish enclaves Ceuta and Melilla .....	49
Map 2: Italy - Hotspots and the asylum headquarter in Catania .....	57
Map 3: Greece - Hotspots and the asylum headquarters in Piraeus .....	67

### Model

Model 1: The four independent variables impact on the dependent variable .....	80
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## 1 Introduction

Despite its importance and political controversy, the Dublin regulations have gained little academic attention. The Dublin system has been the cornerstone in the European Union's efforts to harmonize asylum policy. In essence, Dublin regulates which member state is responsible for which asylum seeker.

The central theme of this master thesis is how the Dublin regulations have been implemented in Greece, Italy and Spain. All the three countries are member states of the European Union, part of the Schengen-agreement and participants in the Dublin system. Furthermore, they are so-called *first-entry states* in the EU. This means that many asylum seekers who arrives in Europe enters their territory first, which means their country is responsible for them. The countries are all located on the Southern border of the Schengen area, bordering the Mediterranean Sea, a main route for asylum seekers headed for Europe. Each state struggles to varying degree with enforcing its borders and fulfilling its obligations under the Dublin regulations. Spain is able to enforce Dublin well, while Italy and especially Greece has struggled for many years. I aim to investigate the difficulties with implementation of the regulations. Then I will compare the cases and see how they differ. The research question is as following:

*How can we explain the differences in implementation of the Dublin regulations in Greece, Italy and Spain?*

The Dublin regulations are in this thesis understood as the three legislations that started with the Dublin Convention in 1997, succeeded by the Dublin II regulation in 2003, and then succeeded by the Dublin III regulation in 2013. They represent the main part of the European Union's asylum system during this period, determining member states responsibility for each asylum seeker. The *member states* or the *Dublin area* is understood as the countries that are obliged to implement the Dublin regulations and include all EU member states apart from Denmark, but does include the non-EU member states of Norway, Iceland, Switzerland and Lichtenstein.

There are three criteria under the current Dublin III regulation that determine responsibility (Eur-Lex, 2013a). The *first* and most senior criteria is family unity and the welfare of unaccompanied minors. If the asylum seeker have close family in a certain member state, especially if the asylum seeker is an unaccompanied minor, the member state with the family members should take responsibility. The *second* criteria is if the asylum seeker has a valid visa

or a recently expired one in a member state, in that case the member state that issued the visa should take responsibility. The *third* and last criteria, which is the most controversial but also the most used is the *first-entry principle*. If the two first criteria cannot be met, the member state the asylum seeker first arrived to is to take responsibility for the asylum application, regardless of the member state where the asylum application is sought. This results in first-entry states having a disproportionally higher number of asylum seekers than other states, simply because of their geographical position. This principle has become a point of controversy and political discussion, especially following the record number of migrants and asylums seekers coming to Europe in 2015, often referred to as the *European migration crisis* or just the *migration crisis* or more formally as the *influx of migrants*.

This thesis focus on the period from the original Dublin convention was implemented in 1997 up until the present (2017). This period has seen a gradual harmonization of member states asylum policies with the original Dublin Convention, later the Dublin II regulation and last the Dublin III regulation. These revisions, although adding new aspects does not alter the main function of the regulation, namely which member state is responsible for which asylum seekers, this principle is the main focus of this master thesis. The differences between the regulations are discussed in section 4.2. Recent years have been turbulent for the three case countries, enforcing the Dublin regulations has been immensely difficult following the influx of migrants. The Dublin regulations themselves are also highly controversial as it is seen as putting an unfair burden on first-entry countries (Morgan, 2016, Euractiv, 2016).

I will use Europeanization theory to answer the research question. The Europeanization theory itself draws from Implementation theory, a theory that seeks to understand how policies are implemented and why some policies are better implemented than others, and why the implementation process may vary between levels of government. Implementation theory is primarily concerned with the so-called *top-down* approach where policy determined by higher level is implemented on lower levels of government (Pressman and Wildavsky, 1984). There is also the *bottom-up* approach, which focus on the ability for lower level of governance to impact national policy, and the *circular* approach, which tries to merge both of the approaches.

Regardless of the different variations in implementation theory, the emphasis in the literature has been to explain the process in the U.S. For a European context the Europeanization theory was developed. Europeanization theory is concerned with the analyse of EU legislation in member states. Why are some member states better with implementing EU legislations than others? The top-down approach is referred to as *downloading* and the bottom-up as *uploading*.



There are two essential hypothesis under the theory: *Misfit*, which suggests the closer a national policy is to the adopted EU law, the easier it is for the member state to implement the EU law (Risse et al., 2001). And *veto players*, the more veto players in a member state, the more likely the policy is not implemented properly (Tsebelis, 2002). Another important aspect in the theory is *state capacity*, a strong state with sufficient economic and administrative resources is better equipped to implement policy as opposed to a state with less state capacity (Evans et al., 1985).

In order to answer the research question, I have made three hypothesis based on the Europeanization literature: Misfit, veto players and state capacity. Because of the nature of the policy area, I have also included a hypothesis concerning how the number of asylum seekers may affect the implementation of Dublin. The hypothesis are further elaborated and explained in sections 2.8 and 3.3.

The empirical evidence is acquired from interviews and relevant documents. I have conducted eight interviews with twelve respondents. Civil servants in the EU Commission, the Council of the EU, European Asylum Support Office, the Financial Mechanism Office, as well as representatives from the administrations in Italy and Greece have been interviewed. The interviewees have contributed with their first-hand knowledge and insights of the current works with Dublin, knowledge that would have been difficult to acquire without their help. Despite many efforts, I was not able to conduct an interview with any representatives from Spain. The interviews were conducted with a semi-structural approach, which allows more information to arise that the research may not have considered before, this knowledge would not have been possible with a survey for instance. To supplement the information gathered from the interviews, I have conducted a document analysis of official EU documents, as well as documents from NGOs.

The main findings suggests that state capacity and the number of asylum seekers are the two most important variables when understanding the implementation of the Dublin regulations. Spain, which had the best state capacity, has had the superior implementation. As opposed to Greece, which had the worst state capacity and the lowest level of implementation. The high number of asylum seekers in Italy and Greece, especially following the influx of migrants have made the implementation even more difficult. While the number remains lower in Spain, thereby having a lower level of pressure. Most surprisingly however, is the lack of explanatory power that can be attributed to the misfit and veto player hypothesis. Both are important aspects of Europeanization, but do not seem to explain the implementation of the Dublin regulations.

The master thesis is structured into different sections: Theoretical framework (chapter 2), methodology (chapter 3), empirical overview of EU asylum policy (chapter 4), the case countries (chapter 5-7), comparison and discussion (chapter 8), and finally the conclusion (chapter 9).

The next chapter presents a literature review of the two theories – Implementation and Europeanization, their main components, and how they have been used in the thesis. The methodology chapter presents the methods used: Most Similar System Design and how information concerning the cases and variables have been acquired through document analysis and semi-structured interviews. Chapter four presents how asylum policy has gradually been developed from a national policy to a common European policy, and specifically how the Dublin regulations have developed over time, and their main content. The three succeeding chapters are about each of the three case countries and the empirical evidence found on the implementation of Dublin in Spain, Italy and Greece in that order. Chapter eight compares the findings from the three preceding chapters and discusses the differences and similarities, and especially the strength of the different independent variables and how they relate to the theories. The last chapter concludes the master thesis, and examines the potential for further research.

## 2 Theoretical framework

In the first parts of this chapter (2.1 and 2.2), I will present both the implementation theory and the Europeanization theory, and previous research conducted the theories. Under the implementation theory, the three generations of implementation is presented. Under Europeanization theory, the two main components of the theory: the misfit hypothesis and veto players are discussed (2.3 and 2.4). State capacity, which is another part of Europeanization is explained in section 2.5 Later, the two forms of non-compliance: voluntary and involuntary compliance are presented (2.6). The Worlds of compliance typology as suggested by Falkner et al. (2007) is explained in section 2.7. In section 2.8, I present the research previously conducted on EU asylum policy with Europeanization. Finally, in section 2.9 I discuss how I have used Europeanization theory in this thesis.

### 2.1 Three generations of implementation theory

Pressman and Wildavsky (1984) sought to investigate how federal funding to a development project in Oakland, U.S, were mismanaged and poorly implemented in their classic book *Implementation*, which started the research based on implementation theory. Majone and Wildavsky (1979:170-174) describe policy implementation as a continuous evolution. Policy affects implementation, if the policy for example is overly ambitious or lacks funding; so the result will more often than not be poor implementation. This is true the other way around as well, implementation impacts policy. Policy implementers usually have certain autonomy to form sub-goals and control funding to reach the overall policy goals. The policy making phase and the implementation phase are intertwined rather than separated. In general, early implementation researchers found several issues with implementing policy reforms and how it did not correspond with policy goals (Goggin, 1986:328).

Implementation by Pressman and Wildavsky is part of the literature which Goggin and his colleges (Goggin et al., 1990) would put under the *first generation* of implementation research. This generation focuses on the so-called *top-down* perspective, where implementation is analysed at low levels of governance whilst the decisions are taken on a higher level of governance such as a city council implementing federal policy, as is the case in *Implementation*. First generation research is typically case and decision specific, used to document policy failure - typically used during the 1970's to study reform policies in the US such as in *The Missing Link – The Study of The Implementation of Social Policy* (Hargrove, 1975).

The early authors of implementation were not particularly concerned with theory building and expansion, according to Pülzl and Treib (2007:89-90). This however changed with the *second generation* of implementation research. Apart from the top-down perspective, the *bottom-up* approach was popularized. It focused on the power of local and regional actors and how they were able to influence decision makers on a higher government level, which in turn led to more favourable outcomes for their part. There became a clear split between authors who swore to the top-down approach: (Pressman and Wildavsky, 1984, Sabatier and Mazmanian, 1979, Sabatier and Mazmanian, 1980) and those who focused on the bottom-up approach (Elmore, 1979, Hjern, 1982, Lipsky, 1971). Another difference with the second generation was the focus on time sequencing and greater importance given to differences between cases (Goggin et al., 1990:14-15). Time sequence, the importance of when a policy is implemented and over what period of time, as well as inter-case differences, were both crucial to understand the implications for the implementation process.

Much of the implementation research can be placed in the second generation. There are, however, several limitations to the first and second generation. Specifying causal links between variables independent and dependent variables are usually excluded from the research (Goggin, 1986:329). The majority of studies are typically small-N-studies with many explanatory variables. The studies of the first and second generation are also typically less “scientific” according to Goggin et al. (1990:18) who suggests a new *third generation* to cope with these problems. It suggests a more “scientific” approach should be added to the research with a focus on causal patterns and differentiating the importance of explanatory variables, and encourage quantitative research in the field of implementation. More importantly, the newest generation wants to bridge the gap between the top-down and bottom-up perspective advocating so-called *hybrid theories*. One such theorist is Wood (1988) who also uses time series analysis to measure environmental protection over time. A study by Wassenberg (1986) finds the “critical” variables affecting state policy implementation, differentiating the explanatory power of independent variables. The researchers of the third generation emphasis the power of different actors in a policy implementation process, both at the top-level and the bottom, such as Hill (1984). Some third generation scholars point out that there exists an artificial separation between policy makers and policy implementers; they are interconnected with important influence on each other’s work. Others criticise this notion, claiming the policy decision process is autonomous and separated from implementers’ pressure, a view hold by Maynard-Moody and Herbert (1989).

There are many definitions of implementation, Pressman and Wildavsky (1984:15) defines it as “a process of interaction between the setting of goals and actions gears to achieve them.” The problem with this definition and implementation research in general is the focus on policy implementation in the US, and does not automatically fit into a European context. Instead, implementation in this thesis will be understood as the transposition, enforcement and application of EU regulations. *Transposition* is the legal enactment of the EU regulation to national law. *Enforcement* is the practical way of the government to ensure the law is being followed correctly. *Application* relates to the extent to the law, if it is applied for everyone it is meant for, or if there is discrimination or non-compliance among certain groups. An EU regulation is defined accordingly by the European Union (2016): “A “regulation” is a binding legislative act. It must be applied in its entirety across the EU.” In other words, there the member states are obliged to transpose national laws in order to comply with an EU regulation, as oppose to a directive, which allows the member states more room for forming policy in order to comply with the EU standard. In principle, the Dublin regulations should be implemented the same way across all member states.

## 2.2 Europeanization theory

Early implementation research was mostly concerned with American policies, such as Goggin et al. (1990) who see the development of the three generations as relevant for the U.S political system on the local, state and federal level. These perspectives were not easily carried over to the European context. Early research on policy implementation in the European Community (EC) were not connected to implementation theory but to *integration theory*. Instead of focusing on how directives were transposed and enforced on the national level, the focus was on sovereignty being transferred from the national level to the supranational level and whether policy choices are done by the EU or member states. The prerequisites for successful implementation are dependent on a well-equipped administration and effective legislative procedures according to the *first wave* of EC-related research. The logic is that the better organised the administration and legislature are, the better the implementation (Schwarze et al., 1990, Siedentopf and Ziller, 1988). This can be linked to the general top-down perspective found in implementation theory at the same time, but more commonly referred to as *downloading* in the European context (Saurugger, 2014). As opposed to implementation theory which mainly focuses on how federal policies are implemented on state and local level, the EC-related research is concerned with how member states implement legislation from the European

Commission. An *upload-perspective* came around the same time and can be compared with the bottom-up approach found in implementation theory. The member states “upload” their preferences to the European level and legislation from the Commission is negotiated before implementation. Member states’ goodwill is necessary to ensure smooth implementation (Kooiman et al., 1988, Pag and Wessels, 1988, Givens and Luedtke, 2004).

The *second wave* of research and what we now know as *Europeanization theory* began in the 1990s with the focus on the effects of the EC on domestic systems and governance (Falkner et al., 2005:15). Both the uploading and downloading were carried over and improved by new researchers, the so-called *circular* form of Europeanization was introduced as well (Saurugger, 2014:124-126). Comparable to hybrid theories, circular Europeanization combines the two perspectives to enhance the explanatory power. The concept of “Europeanization” although well established in research literature has no agreed upon definition. Hix and Goetz (2000:26) understand it as policy and institution change on a domestic level derived from the European level, or “a process of change in national institutional and policy practices that can be attributed to European integration”. This definition goes in the right direction of what I want to focus on, but it is too broad.

Börzel (1999:574) defines Europeanization as a “process by which domestic policy area become increasingly subject to European policymaking.” This definition focuses on policymaking, but is still too broad for my thesis. Another definition of Europeanization is: “the domestic adaptation to European regional integration” (Vink and Graziano, 2007:7). “Domestic adaption” is the adaption of an EU-policy in a member state while “regional integration” is the harmonization of member states of the EU, this definition fits better with my research inquiry. To fully understand the concept of Europeanization it is necessary to understand what it is *not*, Radaelli (2003:33-34) emphasises that the concept must not be mistaken for other similar concepts such as: *convergence*, *harmonization* or *political integration*. Convergence can happen as a result of Europeanization, but must not be used as a synonym, often EU policies can result in striking domestic differences. Although harmonization is a goal with EU regulations, Europeanization does not necessary lead to it; in fact, it might even increase differences among member states. Political integration is concerned with sovereignty transfer from member states to the supranational level, Europeanization is concerned with analysing the consequences of the integration. In my thesis, the concept of Europeanization is understood as both the uploading of policy preferences by member states and the download of EU regulations

with the primary focus on the *misfit hypothesis* and *veto players* (discussed in section 2.3 and 2.4).

Both the policy makers at the European level and the implementing member states influence each other and contribute to how legislation is carried out in practice. This perspective has laid the ground for different studies, Dimitrakopoulos (2001), Raunio and Hix (2000) on national parliaments, Ladrech (2001) on party systems, Olsen (2002) on administration and Falkner (2000) on state-society relationship. In recent years, three groups of researchers have dominated the field of Europeanization:

First, Börzel et al. (2010) who seeks to explain non-compliance with three hypothesis: non-compliance is preferred if the cost of implementation is higher. This rationalist-perspective claims the cost of non-compliance must be raised or the cost of compliance decrease sufficiently to motivate policy implementation. The second perspective is that non-compliance is involuntary through lack of resources and the role of veto-players, a perspective I will later revisit. Thirdly, member states are more inclined to implement policies if the implementers are more in favour of the EU-institutions and see their policy-making mandate as legitimate. The point is not that these three perspectives are competing, on the contrary, they are all necessary to understand non-compliance.

Second, while Börzel and her team are mostly concerned with the uploading perspective and how member states react to new policies, Risse et al. (2001) are concerned with the downloading perspective and how member states need to adapt to EU-legislation. The researchers also look at how domestic institutions are transformed as a result of the EU's influence. How the EU has influenced member states beyond policy implementation such as how it affects citizenship, courts, territory and identity are also discussed, thereby broadening the definition of Europeanization which is typically used to focus on policy implementation.

Third, the research team of Falkner et al. (2005) are the most active researchers on Europeanization, they use the distinction of hard and soft law to explain differences in compliances. Most EU directives are *soft law* legislation meaning they are binding and yet not strongly enforced by the EU, as it usually would have been by member states. Most directives sets up a minimum criteria, but beyond that, the autonomy to shape legislation is very much in the hands of each member state. Their research shows how cross-country variation in terms of political tradition is very important when explaining differences in implementation (Falkner et al., 2005:202).

What are the changes that we can expect from Europeanization? Börzel (1999), Cowles (2001) and Héritier (2001), all argue that in essence there are four possible outcomes of Europeanization: *Inertia*, *absorption*, *transformation* and *retrenchment*.

Inertia happens when there is a lack of change. There are both voluntary and non-voluntary reasons why a member state would respond with inertia in the face of new EU regulations, this is discussed in the next section of the chapter.

Absorption happens when the EU policies are adapted by the member state. However, these changes do not alter the core of the political structure, nor does it go against the “logic” of political behaviour.

Transformation marks a paradigm shift, which fundamentally changes the political structure, and is in contrast with what is common political behaviour in the member state. The adaption of the Euro was such a change.

Retrenchment is a rather paradoxical effect; the response to EU legislation is “less” Europeanization. This happens when the opposition towards an EU policy is large, the member state is fundamentally opposed towards the Europeanization and instead moves towards policies that go against the EU.

### 2.3 The misfit hypothesis

A central concept in explaining non-compliance among member states is the so-called degree of *misfit* also known as *goodness of fit*, the more misfit, the less goodness of fit and vice versa (Risse et al., 2001:6-7). The degree of misfit is the difference between a member state’s current policy and new EU legislation. The theory suggests that the more misfit is present, the less chance does policy has to be implemented. The opposite is true if there is little misfit, thereby making the transfer from Europe to the member states easy and increasing the chance of successful implementation. However, *Adaptational pressure* arises from the EU-level towards member states who are not complying with EU-rules; this can be most visible if the Commission use formal action against member states. The Commission is less likely to use formal action when misfit is low.

There are in essence two forms of misfit that are distinguished in the Europeanization literature (Falkner et al., 2005:27-28). *Policy misfit* is reflected in national legislation. For instance, if an EU directive sets a minimum standard on three months of parental leave while national



legislation only gives two months, then there exists a policy misfit. The misfit is also larger if entirely new sets of regulations have to be implemented by the state compared to if it only need to modify existing law. If a member state has no existing mandatory parental leave, the misfit is more severe than if there is already a two-month programme. However, policy misfit does not necessary indicate the practical difference. For instance, a member state that does not have a parental leave programme by law might have it in practice through collective bargaining by workers or by tradition. This is called *legal misfit* and is equal if not maybe more important when analysing misfit. If the policy misfit is large, but there is no legal misfit meaning that the EU-rules are carried out despite what is reflected in the written law, means that the overall misfit is very low and easily adjusted to reach full compliance. However, if the policy misfit is non-existing but the legal misfit still is large, which means a national law is transposed, but not enforced, it is usually more difficult to change than introducing and transposing a law, making the misfit larger.

A question that arises in the Europeanization literature is how well the misfit hypothesis explains implementation. The logic is that European rules that challenge national policy are typically not implemented, or if they are implemented they are poorly so and/or not on time. This view is reflected by Duina and Blithe (1999:499) who in their article on markets influence over national legislation hypothesize that the degree of misfit is the most important reason for lack of implementation. However, Falkner et al. (2005:289-291) finds in what is probably the largest cross-country study using Europeanization theory, that the misfit hypothesis has severe shortcomings. In only 22 per cent of their ninety-case study focusing on social policy directives were completely in line with the misfit hypothesis. The rest of the cases were either only partially or not at all in line with the hypothesis. In fact, their research shows how in some cases those with the largest amount of misfit were able to transpose directives quicker than those with less misfit, and in some cases, such as Germany and France who generally had less misfit, these turned out to be among the worst with compliance. This can partly be explained with the level of adaptational pressure (Paraskevopoulos and Leonardi, 2007), the member states who have less misfit also experience less adaptational pressure from the EU-level than those with major misfit who in turn have more adaptational pressure. Having more adaptational pressure will push member states to comply more with the European legislation as they risk formal action against them by the Commission, while those who only have a slight misfit run a lesser risk of experiencing any formal action by the EU taken against them.

Policy decisions are not taken in a vacuum; they are largely influenced by the political tradition in a country. In Pierson (2004) *path dependency* is used in order to describe how previous policy decisions and political tradition are essential for a government when considering new policies. Once a certain track is chosen in a policy field, newer policies in the same field are more likely to enforce or modernise it instead of radically altering the given policy area. The cost of revering a policy is higher the further the it is integrated (Pierson, 2004:20). The longer time the policy has existed and the more it is integrated as a part of the political tradition, the harder it is to revoke it and start on a new track. This results in policies usually going down a certain path and future reforms altering, but not completely transform the policy. This in turn help us to understand why some member states have an easier time implementing EU policies if the new policies are in line with the political tradition, while member states with a different tradition have more reasons to resist such policies. Path dependency makes it a lot harder for the EU to implement any policies as the political traditions in member states differ significantly from one another. Path dependency is related to the misfit hypothesis, the more differences there are in political tradition between the member state and the EU regulation, the larger the misfit is and thus the more difficult it is to comply.

## 2.4 Veto players

Another major concept in the Europeanization theory literature is the role of veto players. Tsebelis (2002:19-20) differentiate between two groups: *Institutional* veto players have formal powers through the constitution or by law. They are meant to play the role of a veto player to deliberately balance power or slow down a political process. A clear example is the U.S president who can veto legislation from Congress, who in turn can overrule the veto if there is sufficient support in both the House of Representatives and the Senate. If the veto players are generated by the political game, it is called *partisan* veto players. In a coalition government in a parliamentary democracy, the government parties can be the partisan veto player. Having a majority in the legislative chamber, the government parties are able to pass the legislation they want, possibly excluding the opposition. The legislative branch is still an institutional veto player, but the majority of the governmental parties makes it a partisan veto player.

Another differentiation Tsebelis (2002) makes is between *individual* and *collective* veto players. An individual veto player is typically a president or prime minister with institutional power who is able to veto a legislation. It can also be a parliament where a unanimous decision is required. These are rare cases compared to the much more common collective veto players.

These might be a committee, political party, House of Lords in the UK or the Supreme Court in the U.S. Within the collective veto player there usually tend to be a disagreement between members as to whether to use the veto power. Individually the members have no official power, only as a collective entity are they able to influence the political process. It is only with a sufficient majority the collective veto player can use its power.

The purpose of institutional veto players is to ensure policy stability. Changes should either be slowed down or sufficiently acceptable to the veto player. In essence, veto players act like gatekeepers for the status quo, allowing policy change to pass through only if they agree to the change. In this manner the amount of veto players matters (Tsebelis, 2002:4-5). For example, Italy and the U.S have many veto players and as a result have more policy stability than countries, such as Greece or the UK, with fewer veto players, they experience more policy instability.

The veto players' theory gives us a framework to understand how the status quo can be maintained and policy changes resisted. However, as Vigour (2014) argues, the veto players presented by Tsebelis (2002) are not sufficient to fully understand resistance to policy change. Both *social* and *interest groups* can effectively veto policy change, especially if they are well organised and have a coherent policy suggestion. These veto groups include labour unions, business organisations and NGOs. Usually one such group is not sufficient to stop policy change, but an alliance of groups can persuade policy makers. The European Commission is responsible for the overseeing of compliance with European rules, is highly dependent on these groups for information and forming a legislation (Richardson and Mazey, 2015:319-320). If there is major opposition towards a legislation, the Commission would usually modify the law in order for it to meet less resistance after national governments transpose the law.

In the context of the European Union, the European Court of Justice, the European Parliament and the Council can all be considered having the veto power over legislation coming from the Commission (Tsebelis, 2002:257-259). More importantly to this thesis however, is how member states also function as a powerful veto player. There are many ways to block, hinder or delay EU regulation as pointed out by Richardson and Mazey (2015:317-318). For example, any treaty amendments must be unanimously decided upon by all member state. The co-decision procedure, which is the ordinary legislative procedure in the EU and divides the power between the Commission, the Council and the European Parliament (European Commission, 2012). Both the Commission and the Council are representatives from the national governments and are thus able to veto legislation. As such, the member states have considerable influence

over policy making and can effectively delay, alter or hinder legislation which is seen as unfit, this is related to the “uploading” phase, making sure member states interests are taken into account during policy making.

Studying the implementation of the Packaging Waste Directive, Haverland (2000:100) finds that the role of the veto player is more important than misfit and adaption pressure to explain why implementation varies across member states. Where there are fewer veto players, the implementation is better. Scholars like Duina (1997:159) argues that the larger the demand is on domestic institutions the more opposition there will be from institutional veto players. This can result in non-compliance or lack of implementation to a varying degree.

## 2.5 State capacity

There is no doubt about the importance of the veto player hypothesis in Europeanization theory. However, many scholars emphasise the shortcomings of the hypothesis. As with the misfit hypothesis, in Falkner et al. (2005:296-297) the veto player argument fails to explain all the cases in this large cross-country study. Despite having just as many veto players, Greece had significantly poorer compliance than the UK. A major problem has been to find consistency in implementation. The number of veto players has shown to have both positive and negative effects on the implementation process. What seems to be much more consistent is the pattern between a country’s administration and implementation. The better the capacity and functioning of a member states’ administration the more successful is the implementation. According to Falkner et al. (2008:11) state capacity is a critical factor to measure implementation.

High capacity states are the ones able to deliver high quality public services such as security, welfare and infrastructure to its citizens, while low capacity states, where corruption is also more likely, struggle with implementing such services. Even though state capacity is a well-known concept within academic literature, Francis Fukuyama (2013) views the quantitative measurements as inadequate. There is no standardised way of measuring the concept.

Perhaps the most common measurement is the so-called *Government efficiency* (GE) indicator designed by the World Bank Governance indicator (WGI). It measures a combination of different variables such as: the quality of public service, the quality of government and the degree of autonomy from the rest of the political system (World Bank, 2015). Measurement is difficult, especially when considering that there are many similar or even overlapping concepts

such as *state power*, *state efficiency* or *state strength*, which all seek to explain state capacity, but with slightly different conceptualization.

The concept of State capacity, was popularised by a number of scholars in the *Bringing the State Back In* literature (Evans et al., 1985). The authors focus on the strength and the state's ability to sustain itself, and forcefully implement decisions. This is in line with the definition I have chosen for state capacity: "degree of control that state agents exercise over persons, activities, and resources within their government's territorial jurisdiction" (McAdam et al., 2001:78). A country with good state capacity is able to deliver on policy commitments, implement and enforce laws in practice. The state capacity goes hand in hand with an effective administration, with a clear mandate as well as resources to implement policies.

## 2.6 Forms of non-compliance

There are essentially three steps of the implementation procedure where incorrect performance will result in non-compliance (Falkner et al., 2005:12). If one of them is not carried out correctly, then there is a form of non-compliance.

*Non-transposition* happens in the initial phase of adopting national legislation to fulfil EU legislation. If there is no national legislation that is adopted, or the legislation which is adopted is incorrect, there is a case of non-transposition. It is also common that the legislation is not able to be passed into a law before the deadline set up by the EU, but is eventually transposed.

*Non-enforcement* happens after the legislation is adopted, but there is a failure by the government to ensure enforcement of the adopted legislation. Monitoring the enforcement period is typically done both at the national and EU-level in order to ensure success.

*Non-application* may happen if the new rule is both correct and enforced, but fails to be applicable for all. One such example is if a new labour law is adopted, but certain sectors are excluded from the law. The law needs to be applicable for all who it is intended for. discrimination or exceptions to this leads to non-application.

There may be several reasons why a member states have not been compliant with EU legislation. In the Europeanization literature as well as what is used in international relations literature in general, there is a dichotomy between *voluntary* and *involuntary* non-compliance (Falkner et al., 2008:11). Within the two, there are different motivations and factors that may determine non-compliance:

Voluntary non-compliance is a result of opposition towards a legislation (Falkner et al., 2005:13). This opposition is usually against the content of a new directive. The directive might be expensive, severely undermine the current laws or be against the ideology of the current government. The government therefore lays down their veto. The opposition may however be a result of general opposition to the EU. This may be the case if the government is Eurosceptic. The opposition may also come from other non-governmental parts of society like regions, parliaments or social actors who are not necessarily Eurosceptic, but are against the law the government wants to pass. Börzel et al. (2010) argues that if a member state is not able to upload once preferences, the result most certainly will be opposition in the downloading phase from the government or other parts of the society. This is called *opposition through the backdoor* by Falkner et al. (2004) and shows the importance of co-operation in decision-making between member states and the EU.

Involuntary non-compliance is typically an issue where there are *administrative problems* by the government. The bureaucracy is poorly organised and/or poorly funded which in turn leaves a gap between the policy goals and the actual resources to realise those goals. These administrative shortcomings have gained attention in early Europeanization theory by authors such as Falkner et al. (2004), Schwarze et al. (1990), Siedentopf and Ziller (1988). Then there is the issue of *misinterpretation*, which can lead to delayed or incorrect transposition into national law, according to Dimitrakopoulos (2001) who argues that the lack of a clear cut law text can lead to misinterpretation. Involuntary non-compliance can also be the result of domestic *political instability*. A member state with a confrontational political environment with a political system that encourages competition over compromise will be less able to transpose national legislation successfully. This is shown in Falkner et al. (2004) where Germany and Spain are compared. The German federal government has a tradition of involving the Länder in decision-making, while the Spanish central government has traditionally not, thereby meeting more resistance from the regions when adopting national legislation.

## 2.7 Worlds of compliance

Falkner et al. (2007) in their large-scale quantitative and qualitative research on the implementation of the six major labour law directives in the EU suggests the *Worlds of compliance* typology to help us understand implementation traditions, and divide member states into four groups:

*World of law observance* where a pursuit to comply with EU regulation overrides domestic concerns. This is the case despite major ideological differences by the government and different interests among veto players in society. The “compliance culture” is usually too strong to hinder or delay transposition, only when fundamental domestic traditions are at stake will there be non-compliance.

In the *world of domestic politics* the compliance of EU rules is important, but only one of many other domestic concerns that may often be equally if not more important. If there is a major gap between domestic concern and the EU, the domestic issue takes precedence. Therefore, non-compliance is far more common than in the world of law observance, disobedience towards the EU is common practice.

*World of transposition neglect* in which compliance with EU rules is below the importance of national concerns. Most common EU law is met with inactivity or ineffectively transposed as a result of poor administration or even “national arrogance” (Falkner et al., 2007:405). However, implementation is usually carried out after the Commission has taken informal or formal action against the member state.

The *world of dead letters* was introduced in Falkner and Treib (2008) to include many of the new central and eastern European countries that joined with the enlargements. As opposed to the world of transposition neglect that usually means ignoring transposition of national law until after the deadline, the world of dead letters countries transpose these laws on yet fail to effectively enforce these legislations. The political will to enforce usually exists, but lack in administrative resources is the main obstacle for successful implementation.

**Table 1: Worlds of compliance typology**

The World of law observance:	The World of domestic politics:	The World of transposition neglect:	The World of dead letters:
Denmark, Finland, Sweden	Austria, Belgium, Germany, the Netherlands, Spain and the UK	France, Greece, Luxembourg, Portugal	Ireland, Italy, Czech Republic, Hungary, Slovakia, Slovenia

Source: Falkner et al. (2007) and Falkner and Treib (2008)

The World of compliance typology was developed with EU labour law in mind (Falkner et al., 2005:328) and seems to conceptualize the differences well in that case. However, Falkner also suggests that the World of compliance may not necessarily be restricted to one policy area. This thesis will investigate if the typology can indeed be helpful in understanding the asylum policy as well. This can be especially interesting since each of my case countries belong to different “Worlds”. Spain belongs to the World of domestic politics, and is therefore more prone to implement EU regulations correctly and on time, while Greece, under the World of transposition neglect will have a faultier implementation. Italy, belonging to the World of dead letters will typically have the worst implementation as well as the most delayed transposition of laws. I will test whether the same pattern holds up in case of the EU asylum policy. The empirical evidence for the Worlds of compliance in my cases is discussed in section 2.1.

## **2.8 Europeanization theory in asylum policy**

The Europeanization theory is well established in academic literature and used to explain harmonization in policy areas such as financial instruments (Gerven et al., 2014), monetary policies (Dyson and Marcussen, 2009), environmental policies (Braun, 2014), defence (Dover, 2007), but also more narrow fields such as film policies (Givskov, 2014). The theory has been used in case studies such as development planning in Valencia (Korthals Altes, 2014), or Europeanization through the EEA in Lichtenstein (Frommelt and Gstöhl, 2011). It can also be used to describe how non-EU countries are impacted by “Europe” such as higher education reforms in Georgia and Armenia to harmonize with the European standard (Dobbins and Khachatryan, 2015). Both qualitative and quantitative studies have been used in Europeanization theory; these are just a few examples of the scope of how Europeanization theory has been used across very different cases as well as policy fields and methodology.

On asylum policies, most researcher do not utilise Europeanization theory but focus on demonstrating a gap between European law and fundament rights for the immigrants, main criticism of the EU asylum policies is the lack of compatibility with human rights (Boccardi, 2002, Fekete, 2005, Atak, 2013, Lavenex, 2001a, Guild, 2006). Through the Geneva Convention, European Human Rights Convention and other declarations the EU and its member states have committed to ensure asylum seekers rights and yet as Fekete (2005) points out there are several breaches of these rights. Most notably, the entire Schengen and Dublin-system seems to be in conflict with international conventions as the system favours fast procedures, limiting mobility and making the threshold for applying for asylum high, and as a result is a



subject of great controversy (Fekete, 2005). Interpreting asylum seekers rights have changed as a result of the establishment of an internal border free European area. This has on the one hand made member states neglect their obligations by holding other member states accountable for asylum rights and on the other hand the European Court of Human Rights have pushed for a more collective responsibility among the member states.

The Dublin framework therefore allows member states to blame each other for not fulfilling their part, but at the same time the courts are typically judging in favour of human rights thereby moving the member states to a more collective form of responsibility (Guild, 2006). Past research on asylum policies is in contrast with my field of research, which is not focused on human rights and international law, but on the implementation of asylum policy.

Another focus in the literature is how member states have given up more and more sovereignty on the area in order to gradually create a harmonized policy area (Pađen and Lalić Novak, 2009, Papageorgiou, 2013). The harmonization is still weak on asylum policy compared to many other areas such as agriculture, fishery, environment and monetary policy. Asylum policy seems to still be in an early phase of harmonization compared to these areas. Since the summer of 2015 with high numbers of asylum seekers in Europe, the Commission have tried to gain support from member states to a quota system with high fines to those who fail compliance (McAuley, 2016). The quota system would distribute asylum seekers in the EU to member states based on several criteria such as economy and population size. The quota system has meet fierce resistance from member states like Hungary, Slovakia and Poland (Baczynska, 2017). The current political climate makes it difficult to predict whether harmonization will continue to roll forward, or whether the new policies will be meet with increased resistance.

## **2.9 Theoretical framework for explaining the Dublin regulations**

This thesis focuses on how the three case countries have been able to implement the European regulations, and if they have not been successful with implementation, what are the underlying reasons? Implementation theory, although primarily focused on the political system in the US, can also be imported into a European context. The federal level is the EU institutions, especially the Commission who have both a role in the policy-making of EU regulations and a monitoring function after legislation is transposed at the national level to ensure compliance. If the Commission finds failure of compliance in a member state, it has the power to initiate a formal infringement procedure (Richardson and Mazey, 2015:95-96). Although the Commission does

not share the same amount of power as its US federal counterpart who can force states to comply, the Commission usage of formal procedure or the threat to use it can apply pressure on a member states that will eventually result in compliance.

Time sequencing and the focus on differences among multiple cases which came around with the second generation of implementation theory will be relevant for my thesis as well. The order of which decisions are taken and how they influence each other is closely connected to Pierson's path dependency (Pierson, 2004). Understanding a member states response to EU regulation must be seen in relation to previous policy decisions. Differences in past policy decisions can also reveal why there are different responses by different member states. Although all three case countries have much in common as Mediterranean states, located on the southern border of Europe, it does not mean they do not have significant variations between them. These differences can in turn be helpful to understand why there are variations in compliance.

As previous mentioned, Europeanization could be understood as policy and institutional change on the domestic level as a result of decisions on the European level. This definition fits well with my usage, as I will primarily focus on the implementation of policy and thus, what changes occur at the institutional level. However, it does fail to account for the "uploading phase", which is also a part of this thesis. On the uploading phase I seek to find out if the three member states have been successful to upload their policy preferences and if that is the case was the downloading phase successful as the theory would imply? However, will primarily be on the downloading phase and how successful the member states are in implementing policies coming from the EU.

The two main components in the Europeanization literature are the misfit hypothesis and the role of the veto players. The more misfit there is between the EU legislation and the member states legislation, the more misfit, which in turn makes implementation more difficult. The veto players can hinder policy implementation, the more there are, the more the chance will be that someone will use their veto power. These two components are summarized in the first and second hypothesis:

H1: The more misfit between a member state's national practices and the Dublin regulations, the faultier the implementation of the Dublin regulations.

H2: The more veto players there are, the faultier the implementation of the Dublin regulations.

The Europeanization theory has been important to explain implementation in member states across different fields of policies. However, little is written about the asylum policies and even less on the Dublin regulation. The current theoretical framework is not made for my research inquiry; it is therefore reason to assume there might be different factors not covered by the literature that can explain implementation. The sheer number of migrants and asylum seekers arriving in Europe put the current Dublin regulation under strain, even resulting in temporarily repeal in some countries (European Commission, 2016l). The EU has negotiated third-party agreements with third countries, in order to cooperate and hinder migrants from reaching Europe. These agreements with Morocco, Libya and Turkey might have had an impact on the number of migrants actually reaching European shores. In this thesis, the word “migrants” is used as a collective term for economic migrants, refugees and asylum seekers, in other words all those who arrive “irregular” with the intention to stay in Europe. Although not all of them choose to apply for asylum, they still must be registered, thereby adding a greater burden on the receiving country. All of those who seek asylum in other member states also risk being sent back to the country of entry. Economic migrants are defined as individuals who enter irregular with the intention to find economic opportunities. Refugees are individuals who seek fleeing armed conflict, prosecution or in other ways directly threatened safety. Asylum seekers are those who have applied for asylum without knowing the outcome of their application yet, the asylum seekers may be both economic migrants or refugees. The term asylum seeker and migrant and its measurement is further discussed in section 3.3.

These third-country agreements might have reduced the number of asylum seekers, which in turn might have made compliance with the Dublin regulations easier. One must however, put the number of asylum seekers in context and recognise the differences between the case countries. The size of the population and the GDP is a good reference point to understand the “pressure” of the number of asylum seekers. Population and GDP is also used by the Commission in their newest proposal to reform the Dublin III framework to measure a “fair” number of asylum seekers per country (European Commission, 2016j). With that in mind, the hypothesis is:

H3: The higher numbers of asylum seekers, the faultier implementation of the Dublin regulations.

As previously discussed *state capacity* is the government’s ability to control resources, policies and people. Evans et al. (1985:352-353) discuss state capacity as a prerequisite to enforce policies. It is the administrative capacity, the government and their bureaucratic ability, as well

as fiscal ability to perform governmental tasks. There has to be “state autonomy” as well, the ability of the state to organize and control itself “from within” and not by other organizations or individuals. If a state has a low state capacity, it is difficult for it to implement any law. State capacity is thus hypothesised as follows:

H4: The less state capacity a member state has, the faultier the implementation of the Dublin regulations.

### 3 Methodology

In this chapter, I will present the methodology used for the thesis (3.1). I have used a qualitative approach with three cases analysed and compared them (3.2). To explain the dependent variable, I have formulated four hypothesis; three related to the theoretical literature (misfit, veto players and state capacity), and one presumed to have an impact on implementation, despite it not being in the literature, that is the number of asylum seekers (3.3). Data is collected by document analysis and semi-structured interviews (3.4). The last part of the chapter discusses the importance of validity and reliability and how I have attempted to ensure them in the thesis (3.5).

#### 3.1 Multiple-case study

My research method for this thesis is *case study* or more specifically *multiple-case study* as three cases are used instead of one. There are multiple definitions of what a case study is such as Gerring (2007:20), who defines it as: “the intensive study of a single case where the purpose of that study is – at least in part – to shed light on a larger class of cases”. This is a minimal definition, which focuses on the *generalization* aspect of *sample(s)* in the *population*. Another definition provided by Yin (2003:13) is “a case study is an empirical inquiry that investigates a contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident.” This definition focuses on the contextual situation of what is being investigated. Creswell (2013:97) views case studies as a qualitative methodological research design:

“Case study research is a qualitative approach in which the investigator explores a real-life, contemporary bounded system (a case) or multiple bounded systems (cases) over time, through detailed, in-depth data collection involving multiple sources of information (e.g. observations, interviews, audiovisual material, and documents and reports), and reports a case description and case themes. The units of analysis in the case study might be multiple cases (a multisite study) or a single case (a within-site study).”

All the three definitions are suitable for this thesis, but Creswell’s definition is the most fitting for my research inquiry. Although the three cases (Spain, Italy and Greece) have many similarities that distinguish them from other EU members, I aim to follow Gerring’s definition. Creswell (2013:98-99) points out that case studies can be valuable for theory testing, as it gives

us an in-depth understanding of the phenomenon being investigated. Large N studies can be useful to generalize, but they also carry with them methodological concerns such as assuming the comparability across all cases, despite such studies not fully taking into account the contextual differences between the cases. This is where the case study method brings additional and often important contextual information.

Yin's definition focuses on the importance of the phenomenon being "contemporary". The Dublin regulation has been enforced since 1997 currently used to regulate responsibility for asylum applications among member states. This is also the time period under focus in this thesis, beginning with the original Dublin convention's entering into force in 1997 with the two revisions – The Dublin II regulation in 2003, and the Dublin III regulation from 2013. In order to truly understand implementation of the Dublin regulations, it is important to differentiate between the context and the phenomenon as Yin points out. Multiple-case studies allows us to gather in-depth knowledge about each of the cases, and later compare them. This makes the methodology useful, especially considering that both the regulations and the cases have gained little scholarly attention in the past. As Creswell (2013:47-48) points out, qualitative research and especially case study can be useful when researching a complicated field with little preceding research.

### 3.2 Cases

The three case countries in the thesis are Spain, Italy and Greece who all share common characteristics. They are all members of the EU, the Schengen agreement and have been part of the Dublin framework since the beginning. Geographically, they are part of the EU's Southern border against the Mediterranean Sea, an important route for many asylum seekers coming into Europe. According to Ferrera (2010) they are part of a common "Southern European welfare state" with similar welfare systems and economy. There is a clear difference between the well-protected labour force, who are well covered by the welfare through their employment, and outside workers, often part-time workers who have a very limited access to the welfare state. The most common form of social protection does not come from the state, but provided by the family, where the young take care of the old and the employed provide for the unemployed within the family (Moreno, 2000:147-148). The three countries have a history of authoritarian rule and a recent democratization process<sup>1</sup>. While Italy was one of the founding members of

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<sup>1</sup> Spain after Franco's death in 1975, Italy after WW2, and Greece following the collapse of the military junta in 1974

the European Community, Greece joined in 1981 and Spain in 1986. They all had similar motivation to do so, as they sought to secure and strengthen their relative new democracies and push their economies to become more competitive (Michalski, 2006:283-284). Religion has played an important historical role in building many of the political and social institutions in the Southern European countries, however, the church and religion authority has gradually been diminished and secularization have become an increasing part of society (Moreno, 2000:147).

As the three countries are part of the EU and the Dublin regulations, they are all responsible to process applications for asylum seekers first arriving to their countries. The three cases have relatively new but stable parliamentary democracies. Lavenex (2001b:863) points out that the Europeanization of asylum policies of all member states have had the most impact in Spain, Italy and Greece. Before the harmonization process in the EU, where the prior domestic policies on asylum were limited and still have a hard time adjusting to EU standards. Many of the asylum seekers arriving in these states choose to travel to other European countries such as Germany and Sweden where the chance to get a residence permit typically has been higher than in the Southern countries.

Of the three cases, **Greece** has had the least functioning asylum system. This was highlighted with the United Nations going so far as to call it a “humanitarian crisis” (UNHCR, 2010b). The lack of implementation is made even more severe when considering most transfer requests have been suspended to Greece since 2011 following the European Court of Human Rights decision on *M.S.S. v Belgium and Greece* concerning lack of an adequate asylum system (Clayton, 2011). The result being very few transfer requests are directed to Greece, despite it being a first entry country for many asylum seekers. According to a report commissioned by the European Commission (Jurado et al., 2016), Greece has breached the Dublin regulations by not providing legal assistance to asylum seekers, not aiding unaccompanied children more, not taking responsibility for asylum cases and not processing the cases on time as some of the most severe cases of lack of implementation. Following the Commission’s official infringement procedure, Greece has had four infringements on the Dublin II regulation (European Commission, 2017b). Despite its previous lack of a functioning asylum system and the increase of migrants, Greece has made significant advancement in enforcing the Dublin III regulation the last few years, especially concerning the registration of asylum seekers (European Commission, 2016f). Although there still are certainly obstacles to overcome to fulfil the regulation, the Commission sees the situation as improving and in March 2017 allowed for the resumption transfers.

**Italy** finds itself in a similar position as Greece, following the 2015 influx of migrants, large numbers have crossed the Mediterranean Sea to reach Italian shores. Italy is the highest receiver of asylum seekers of the three case countries (Eurostat, 2016b). Unlike Greece, the transfer request system is not suspended, in fact, Italy is the largest receiver of incoming transfer requests of all the member states participating in the Dublin-system (Eurostat, 2014, 2016). Although not as severe implementation issues as Greece, Italy has had three official infringement cases concerning the Dublin II regulation (European Commission, 2017b). Some of the biggest lacks of implementation include failure to provide interpreters for asylum seekers, legal aid is sometimes not provided and the lack of information about the asylum process were among the most severe breaches (Jurado et al., 2016).

**Spain** share the same characteristics as Italy and Greece as a Mediterranean border country where many asylum seekers first enter in Europe. Fewer seek asylum in Spain compared to both Italy and Greece (Eurostat, 2016b). There has been no formal infringement procedures against Spain on the Dublin regulations, and there are almost no concerns when it comes to implementation of the Dublin III regulation (Jurado et al., 2016). The research questions concerns why there is an apparent difference with implementing the Dublin regulations. What is it that Spain does, but what Greece and to a certain extent Italy lacks in order to implement those better?

The three cases are chosen for their similarities, so, the case selection follows *The Method of Difference* or *Most Similar Systems Design (MSSD)*. Originally conceptualized By John Stuart Mill, where case selection leads to cases that have much in common, thereby eliminating the similar variables in explaining the differences among the cases (Moses and Knutsen, 2007:97-98).

A small N study, such as the multiple case study design is prone to selection bias. This is in stark contrast to large N statistical studies where random selection is an important principle (Moses and Knutsen, 2007:111). This is especially true for a MSSD design where the cases are specifically chosen based on the cases similarities. My cases are chosen based on the clear similarities in terms of political system, economy and geography and not based on random sampling. Despite potential bias, MSSD allows me to analyse the dependent variable without putting much weight on the similarities between the cases and instead focus on variables that have differences. The case study approach, allows us to gain in-depth knowledge of the cases and then better understand the variations and context of the cases.



MSSD as Anckar (2008:389-390) points out, is theoretically robust, but in practice has a major problem as there are limited number of countries and therefore it is impossible to have cases where all potential explanatory factors are kept constant. This is also true for my cases, as they, despite their many similarities also have many more differences that sets them apart. These differences include population size, GDP per capita, public debt, language and geography, just to name a few. The fact that not all explanatory variables are kept constant is the biggest drawback of the MSSD approach, but it is still useful as the cases have common characteristics that makes them easier to compare, most important being that they are all three first-entry countries for many asylum seekers. Stake (2006:82-84) points out that multiple-case studies can be used for comparing cases, but in the process we lose some in-depth understanding of each case, as comparing a few variables is the central purpose in a comparison study.

As with any study, my thesis has to narrow its scope, and I have chosen to focus on a few variables, although I am open to others in the course of the research. This does certainly limit the possibility to learn more in-depth about each case. Nevertheless, I consider that advantage of comparing different cases would still be more valuable, as we can learn from the three different member states and understand why one or more of the cases are better in implementing, and if so, which of the independent variables are important in explaining these differences? This can broaden our understanding of which factors contributes to successful implementation and what differentiate each case.

### 3.3 Variables

The dependent variable is *implementation*, more specifically the *implementation of the Dublin regulations*. Implementation is previously defined as the transposition, enforcement and application of EU regulations. Successful implementation requires the transposition, enforcement and application of the law. An EU regulation also previously defined, is a binding legislative act from the EU that should be transposed and enforced in its entirety by all member states. The Dublin regulations are in my thesis understood as the Dublin convention (1997-2003), the Dublin II regulation (2003-2013) and the Dublin III regulation (2013-). Although there are differences between the different Dublin regulations, the main core is constant, namely the first-entry principle. The differences between them are further discussed in section 4.2.

When the implementation has not been done correctly or on time, the Commission can carry out an *infringement procedure*. Analysing the number of infringement procedures carried out

and the number of times the Commission has threatened to use it is a way to measure the amount of implementation. This formal procedure against non-compliance has three steps (European Commission, 2016i):

*Letter of formal notice*, which is sent by the Commission to the member state. Usually the member state will respond with a formal answer about why the EU policy is not carried out yet. This usually results in the member state also committing to work for further compliance.

If however, a formal response is not given or the Commission deems the response unsatisfactory a *reasoned opinion*, where the Commission establish what the lack of implementation is and what the member state must do in order to achieve compliance.

The third step is to refer the case to the *Court of Justice of the European Union (CJEU)* that can lead to a fine against the member state. The formal infringement procedure is not only a way to measure implementation, but can also be used to view the severity of misfit. For instance, a case where a member state is not able to comply with a directive, the Commission may use the letter of formal notice if the misfit is considerable, if the misfit is not dealt with the Commission may choose to go one step further with the reasoned opinion. This will then be a more severe case of misfit and continuous non-compliance, compared to if the Commission had chosen not to go further with their official infringement.

The formal infringement procedure is commonly used in order to measure compliance, but as Falkner et al. (2005:19-20) points out, infringement procedure is not a perfect measurement for non-compliance. The infringement procedure is in reality the reaction towards non-compliance by the Commission. It does not take into account any informal procedures the Commission may take, and hence fails to address any country bias where some member states may be more prone to get the formal procedure than others. Knill (2015:385) points out the Commission is often reluctant to use the formal procedure. There may also be a bias towards certain policies and sectors and formal procedure may not be taken because of lack of administrative resources in the Commission.

A better way to measure implementation would have been to analyse the total number of people arriving in each member state and how many of them sought asylum in that country compared to those who travelled to other member states. However, there is no precise data on the total number arriving, as many of them are not accounted for according to Jurado et al. (2016:9), avoiding border security. In order to measure implementation, it is necessary to go deeper with analysis of national laws and documents, third party reports and interviews with officials both

the EU side dealing with the infringement procedures and on the member states side where the implementation is happening. The Combination of the different sources of information will be fundamental to measure implementation.

Another important part to measure compliance with the Dublin regulations is the number of *transfer requests* a country receives. The Dublin regulation allows member states to transfer asylum seekers back to their original country of entrance in the EU. If the number of incoming transfer requests are high in a member state, it is clear that the state has not been sufficiently effective to process the asylum seekers when they first arrived. There are, however, some major problems with using transfer requests as a measurement as well. States may be incline to send back asylum seekers and instead process their asylum applications themselves. There may also be a bias, sending back asylum seekers to some countries and not to others. It is also worth noting that although the first-entry member state has the full responsibility for asylum seekers arriving, the asylum seekers themselves are not obliged to seek asylum there. They can travel to other member states, even though they risk being transferred. Only when combining the information given by the formal infringement procedure, analysis of documents, both from the EU and other institutions, as well as looking into the number of transfer requests can we determine more accurately how good implementation has been.

**Table 2: Measurement of the dependent variable**

	<b>Implementation of the Dublin Regulations</b>	
<b>Formal procedures</b>	Infringement procedure	<ul style="list-style-type: none"> <li>- Letter of formal notice</li> <li>- reasoned opinion</li> <li>- referred to the CJEU</li> </ul>
	Transfer procedure	<ul style="list-style-type: none"> <li>- Transfer requests</li> </ul>
<b>Informal analysis</b>		<ul style="list-style-type: none"> <li>- Interviews</li> <li>- Document analysis</li> </ul>

The Dublin III regulation is the current version of the Dublin regulations, being a revision of the Dublin II regulation, which in turn was a revision of the Dublin Convention. Although they are three different legislations with legal difference, the main component remains the same throughout the different revisions. The regulations are concerned with which member state is responsible for which asylum seeker. The regulations are *not* concerned for instance with the criteria to gain permanent residence or the fingerprints database for instance. The first member state the asylum seeker arrives in is exclusively responsible for processing the asylum request,

it is also responsible for processing the asylum request and the asylum seeker in accordance with the UN and the EU's convention of fundamental rights (Eur-Lex, 2013b). The way member states enforce this main principle of the Dublin regulations is the core of this master thesis.

Although the three Dublin regulations are the subject of current research, the main focus remains with the Dublin III regulation and recent years' developments. This is for two reasons: Information about the Dublin II regulation and especially the Dublin convention has proven very difficult to get. Both written documents and interviews with people who worked with the European asylum policies at the period are difficult to access. The second reason is to limit the scope of the master thesis, given that the Dublin III is the current framework, it makes more sense to focus on recent events. Therefore, although the Dublin regulations are researched as a package, the focus lies with the current framework, especially considering the influx in 2015 and later. The differences and development of the regulations are further discussed in section 4.2.

Each hypothesis correspond with an independent variable as summarized in table 3, below. How do we operationalize the independent variables?

**Table 3: The dependent and independent variable**

Hypothesis	Variables
DV	Implementation of the Dublin regulations
H1	Misfit
H2	Veto-players
H3	Number of asylum seekers
H4	State capacity

The degree of misfit is previously discussed in terms of policy and legal misfit (section 2.3). Policy misfit, can be measured when comparing national law with the Dublin regulations in order to see whether the national law complies with the EU law. Legal misfit must be analysed with information provided from literature analysis as well as interviews.

The number of asylum seekers are accessible through Eurostat and the UN Refugee Agency (UNHCR). It is, however very difficult to pin point the number of immigrants arriving since

many are not accounted for. There may also be measurement errors when counting the number of asylum seekers. Eurostat relies on numbers reported by member states, although they supposedly meant to be measured the same way across member state, yet there might be different practices. Still, the Eurostat and UNHCR's numbers on asylum seekers are widely reported by academic literature and news, there is simply put, no better measurement of the numbers. We can assume the numbers are as close to reality as is possible. Instead of the number of asylum seekers, another indicator could have been the total number of migrants arriving. Greece for instance, has not taken in many asylum seekers when compared to the likely number of migrants arriving. However, I have chosen to exclude this indicator, as the number of arriving migrants are much more unreliable than the number of asylum seekers. There are simply no accurate numbers available, especially over many years. In addition, the high number of asylum seeker does represent the actual "burden" well in my cases, despite it not being a perfect measurement. Being an asylum seeker means the member state is already processing once case, thereby adding to the "burden".

Veto players in Europeanization theory has been discussed in section 2.4. Policy-makers usually know veto players preferences and adjusts their policies in order to ensure the implementation of the policy. To understand who are the important veto players, and what effect they might have had on the Dublin regulations, we need to understand the institutional framework of the member countries, as well as their role during the implementation of the regulations. Many veto players should result in a greater chance for not implementing EU law.

State capacity, as previously discussed is the ability of state actors to influence persons, activity and process in society. A commonly used measurement is the Government Effectiveness (GE) indicator designed by the World Bank Governance indicator (WGI). It measures a combination of different variables such as: the quality of public service, the quality of government and the degree of autonomy from the rest of the political system (World Bank, 2015). This measurement although commonly used, is criticised by Thomas (2009) for lacking measurement validity. "State capacity" is an abstract idea that cannot be fully captured by the GE indicator or any other indicator for that matter. And yet this measurement represents the best possible way to indicate whether the state capacity is good or not. The GE data is based on data provided by the governments as well as independent surveys and NGO data from Reporters Without Borders and Freedom House (Kaufmann et al., 2010:5-6). When the indicator is used as a supplement with other sources of information such as interviews and written literature, concerning the

structure of the bureaucracy. This it will give us a better understanding of whether the state capacity has been sufficient in order to implement the regulations.

### 3.4 Data collection

According to Creswell's definition of case study, it is important to gather empirical evidence based on multiple sources. The data for the thesis is gathered in two ways: qualitative document analysis of relevant documents such as the actual Dublin regulations, national laws, policy papers, EU documents, academic literature, and third-party reports. The other significant source of information comes from the semi-structured interviews with relevant actors both on the EU side and on the domestic implementation side.

#### 3.4.1 Document analysis

Grønmo (2004:121-123) emphasises that all documents needs to be critically judged based on four criteria: *Availability*, *relevance*, *authenticity* and *credibility*. I have chosen my sources based on these four criteria.

*Availability*: The reports published by the independent group *Asylum Information Database* (AIDA), a project by the *European Council on Refugees and Exiles*, measuring implementation of the EU asylum legislation, has been among the most useful as they have both written country reports as well as a comparative report on the asylum procedures and implementation of asylum policies in Europe (Tsipoura et al., 2015, De Donato, 2015, Queipo de Llano and Zuppiroli, 2016, Jurado et al., 2016). Other data from documents for this thesis have been official EU documents, such as the official evaluation of the Dublin III regulation (Jurado et al., 2016) and the database over all infringement procedures (DG Migration and Home Affairs, 2016), all of these are public available information. Some of the documents are official government documents of the three case countries, however my lack of knowledge in Spanish, Italian and Greek have narrowed the availability of documents and limited my chance to read and analyse many of the national documents on the issue. Only English written documents have been analysed. This is one of the reasons why it has been important, not just to gather data from documents, but from other sources such as interviews that can to a certain extent compensate for the lack of literature written in other languages. According to Yin (2003:97) it is perhaps the greatest strength of case study to use multiple sources of information, thereby gathering more varied data, which in turn can help to strengthen the research. There have also been

documents provided by third party actors such as asylum NGOs, newspapers and academic research.

Relevance: All documents have been chosen because of their contribution in answering the research question. The EU's official documents reviewing enforcement of the Dublin regulations as well as the data on the official infringement procedure are such documents, helping explain implementation of the Dublin regulations.

Authenticity: Knowing that the source is real. The EU documents have been found through the official EU site, NGO reports were gathered from their official site and academic research were downloaded from known academic sites such as Jstore and Proquest. The academic journals the articles are taken from have also been checked against the blacklist: *Beall's List of Predatory Journals and Publishers* and the whitelist by the Norwegian Centre for Research Data: *European Reference Index for the Humanities and Social Science* to evaluate the authenticity of the source (Beall, 2017, European Science Foundation, 2017).

Credibility: Although the information is available, relevant and the authentic, it must also be considered if the given information is true or not. Documents are seldom fully accurate and are usually prone to bias of those who write them whether they are aware of it or not (Yin, 2003:87). For instance, the European Commission may not include certain relevant information in their official reports and instead of using the official infringement procedure to resolve non-compliance of member states, the Commission might take informal actions that are not mentioned in their reports. However, the information itself provided in official EU and NGO reports, I have considered to be credible. Documents do have a major advantage over interviews and other data sources in that they can be repeatedly scrutinized and the exact information and references can be checked for accuracy. When the source material lacks credibility, for example with information not referenced or verified by other sources, it has not been included in the thesis.

### 3.4.2 Semi-structured interviews

A semi-structured interview is somewhere between a formal structured interviews, such as surveys, and informal interviews, which can play out as a conversation between the researcher and the interviewee. Instead, the semi-structured interview consists of open-ended questions that are prepared in advance, but follow-up questions may arise during the interview. The point is to have a general understanding of where the interview should go with some important

questions that are prepared in order to gain the knowledge relevant for the research question, but it is also important to have an open mind and be curious to what the interviewees say, as they might provide new knowledge and new perspectives (Grønmo, 2004:159-160). The prepared questions are formulated in the *interview guide* found in the appendix of this thesis. The point with an interview guide is to formulate relevant questions and structure the interview, although, as was previously stated one must be flexible and open to follow-up questions based on the answers given.

A technique Leech (2002) recommends is *gaining rapport*, used to make respondents feel comfortable during the interview by showing interest in what the interviewee says. One commonly used gaining rapport is to be non-judgmental when asking the questions, and summarize the respondents' answers before asking new questions, in order to make them know you are paying attention to their responses. One also need to be aware not to ask leading questions and imposing one's own opinions upon the respondents.

There are advantages and disadvantages of semi-structured interviews. Much of the process regarding the implementation of the Dublin regulations in the three case countries are not well documented in the official records, especially not in English. Instead, the information is with many bureaucrats. Becker and Meyers (1974:605) suggests interviews are most appropriate when the information is not accessible by other sources and must be obtained by interviewing relevant actors. This is certainly the case for the research question of this thesis. The open-ended questions allows the respondents to come with new aspects of the research question that the researchers may not have considered. This can also become a disadvantage as much of the information may not be relevant, making the interviews harder to code or that the questions are not asked in the same order for all the interviewees, making it more difficult to compare the answers (Aberbach and Rockman, 2002:674). Another disadvantage as (Yin, 2003:108-109) points out is that responders may be biased in their response or that their memory is faulty, thereby providing an inaccurate account of events. Therefore, it is important to rely on multiple sources of information through several interviews as well as the documents that are analysed.

I have interviewed twelve central people who work with the implementation of the Dublin regulations. The interviewees are two from the Commission, two from the Council of the EU, one from the European Asylum Support Office, two civil servants from Greece and three from Italy. They have provided invaluable information, much of which could not be obtained online or by other sources. alas, I was not able to secure an interview with a representative from Spain despite several attempts with several officials. However unfortunate, Spain is the least



problematic of the cases to not have an interview as both the information about Spain is more substantial in written English documents than that of Italy and Greece. It is also the least complex of the three cases as Spain have been able to implement Dublin quite successfully and consistently over many years, as opposed to Italy and Greece where the situation is far more complicated.

As far as possible, I have tried to get the interviews face-to-face; I therefore travelled to Brussels to conduct many of the interviews. It is difficult to assess before conducting the interviews in person if it is truly worthwhile. It would have been possible to conduct the interviews over a phone call, but this also provides some issues as interviews are often more reluctant to talk over phone, body language cannot be analysed and the chance to get documents from the respondents or have an informal conversation before and after the interview is more difficult. In some cases, it was difficult to get an interview in person; I then relied on Skype to conduct the interviews. All the interviews were recorded to transcribe, except respondent 5 who did not want to be recorded, the interview is therefore only used as a background information.

As far as possible, I have tried to fact check the statements from the interviews. This is particular important when interviewing “elites” who provide information that may not exist in documents, but knowledge gained through first-hand experience.

### 3.5 Validity and reliability

There are two broad criteria used to establish quality in social science: *validity* and *reliability*. According to Yin (2003:33-37), validity can be split into three tests:

*Construct validity*: Establishes the operational measures for the concepts that are investigated. In essence, construct validity concerns the correct measurement of what we want to measure. This is probably the most difficult and often the most criticised aspect of case study as operationalization is highly difficult in a case study when considering the research subjective data collection and interpretation. I have operationalized the variables previously in the chapter (3.3) where I have encountered the issue of operationalizing seemingly abstract concepts such as “state capacity” and “compliance”. Yin (2003:36) recommends using multiple sources of evidence in order to deal with the issue. This is why I rely on both documents and interviews. Many of the documents used are official EU reports that may perhaps not be valid measures alone, the same goes for interviews where the respondents may be biased. Using both forms of

sources does not remove the weakness of each form, but may give a more complete overview and enlighten different aspects of the research inquiry.

*Internal validity:* Are the relations between the different variables causal? The goal is to understand whether the independent variables may have an impact on the dependent variable, and if so, is the relationship causal? This is an important research inquiry, as I want to explain what factors are important when analysing implementation and if there are causal explanations. As Falkner et al. (2008:12) in their research using Europeanization theory points out, one variable cannot explain the full scope of variation in each case, instead there is a more complex picture with many variables working together. Although I will look on each independent variable for itself, I will also try to understand them in a broader picture and how the combination of variables may explain variation in the cases. This is an approach recommended by Gerring (2007:172) in that contextual evidence and deductive logic is necessary to understand the complexity of causality, which is often found in case studies. This form of analysis is known as *process tracing*. It emphasizes that causality is rarely between one independent variable and the dependent variable, but instead involves longer chains of causation (Gerring, 2007:173).

*External validity:* Concerns whether the study findings can be generalized beyond the cases that are analysed in the study. A common criticism towards case studies is that they lack the ability to generalize and therefore have a low level of external validity. The virtue of a case study lies instead on internal validity (Gerring, 2007:43). This is also a major downside to my study, as it has a low level of external validity. For instance, I do not expect my findings to be applicable for many other EU-member states such as France or Lithuania, partly because they are not included in the study, but also that they are very different countries compared to my case countries. The MSSD approach further restricts generalization to countries that are comparable with the case countries. However, I do wish to investigate the *worlds of compliance* typology to Falkner et al. (2007) and see if it applies to my research, thereby potentially expanding the generalization of the typology. Apart from this, my main concern is to understand the complexity of the cases as much as possible, external validity is therefore not in the focus of the current thesis.

The second criteria *reliability* is concerned with minimizing the errors and biases in a study. If a researcher was to enact the same case study all over again, following the same procedures, he/she should be arriving at the same conclusion as with the first case study (Yin, 2003:37). For further researchers to replicate a case study, it is important that the procedure and sources are

well documented through the process. By citing written sources and transcribing interviews, I believe the thesis does have a large degree of reliability, even though I cannot exclude the chance of error or bias altogether. Especially bias may have been present since, as previously discussed, only English written documents have been analysed. The interview guide and references are included for transparency. Findings should ideally be confirmed by three or more independent sources in so called *triangulation* (Stake, 2006:33). I have tried to confirm my main findings from more than one source in order to limit error and bias in this thesis. I have also tried to confirm the responses gathered from the interviews with other sources and by fact checking statements.

## 4 Empirical overview of EU asylum policy

In this chapter, I will first present the development of harmonization of asylum policy in the EU and recent developments such as the Hotspot approach (4.1). The second part (4.2) concerns the development of the Dublin regulations from the original Dublin convention to the Dublin II regulation and to the current Dublin III. Recent developments concerning the reform and possible new Dublin IV regulation is also examined.

### 4.1 EU asylum policy

Asylum policy on the community level is a recent development in the EU, serious efforts of harmonization was only pushed forward with the *Single European ACT* (SEA) in 1987 and the Schengen convention in 1990 (Provera, 2010-45). With internal border control abolished as a result of Schengen, the need for coherent asylum policy in the EU became apparent. Asylum policy in the European Union is an area where the Union has sought to further integrate and harmonize legislation across member states, as opposed to immigration policies in general, where the legislation is patchier. For example, member states have the full sovereignty to determine the criteria for migrants getting permanent residence. With asylum, the policies have gradually harmonised through the *Common European Asylum System* (CEAS) (Goudappel et al., 2011:2-3, Lavenex, 2001b).

Starting in 1999, the harmonization process is viewed by most observers as necessary in order for the EU to effectively meet and enforce the goal of free movement of labour, one of the four freedoms in the common market (Givens and Luedtke, 2004). The CEAS includes four legislations beside the Dublin regulations: The EURODAC regulation, which set up a common fingerprints database for European law enforcement; Reception Conditions Directive, ensuring fundamental accommodations for asylum seekers; Asylum Procedures Directive, ensuring quicker application decisions and special rights for vulnerable groups such as torture victims; and the Qualification Directive, clarifies ground for international protection (European Commission, 2016d). This gradual harmonization is seen as an effort to strengthen the EUs external borders, share responsibility between member states and eventually harmonize not only the application procedure but ensure that the application response becomes similar regardless of which EU-country an asylum seeker apply to. As it is stated on the Commissions website (2016d): “Asylum must not be a lottery. EU member states have a shared responsibility to welcome asylum seekers in a dignified manner, ensuring they are treated fairly and that their

case is examined to uniform standards so that, no matter where an applicant applies, the outcome will be similar.”

Since the introduction of the CEAS in 1999, the Commission has moved, but not been able too fully realize harmonization among member states. Two comparative studies on the implementation of the Qualification Directive and the Asylum Procedure Directive, conducted by the UNHCR found that the intention of harmonization in both directives has not been fulfilled (UNHCR, 2005, UNHCR, 2010a). The directives have been too vague and interpreted differently by member states. To further harmonize asylum policies, the Commission introduced the *Green Paper on the Future Common European Asylum System* (European Commission, 2007) and the *Policy Plan on Asylum an Integrated Approach to Protection Across the EU* (European Commission, 2008). These documents have laid the foundation for the Commission’s recent years action in harmonizing asylum policies.

A reoccurring issue with the current asylum system is the burden-sharing aspect, where some member states are obliged to take a larger share of the burden when enforcing its external borders. One measure taken, which also incentivise member states implementing the CEAS, is a fund that has been set up to cover expenses, especially in those states where the number of asylum seekers arriving is high. The *Asylum, Migration and Integration Fund* (AMIF) took effect in 2014 and will last until 2020. All member states except for Denmark participate in the fund, which in practice makes member states finance and compensate first-entry countries for taking the majority of the “burden” (European Commission, 2016a). There is also the *Internal Security Fund* (ISF) which is an EU fund to finance police work and border protection and has been distributed in large part to Greece (European Commission, 2017d).

Burden-sharing has not only been discussed as an economical joint effort but also in terms of distributing refugees coming to Europe has been a proposal by the Commission since the early 1990s following the war in Yugoslavia (Suhrke, 1998:397). Large scale resettlement has also been discussed following the so influx of migrants beginning in 2015 (European Commission, 2016e). These propositions, despite efforts by the Commission have not been fully realized yet as opposition from member states have been apparent, Hungary, Slovakia and Poland among other states, have previously had reservations to such a scheme where certain member states would be obliged to take in more refugees than what they are currently taking in (Baczynska, 2017). Having opposition from key member states have in practice hindered the progress of a refugee burden-sharing scheme (Suhrke, 1998:408, Lavenex, 2001b:863).

Following the 2015 influx of migrants, many member states had the issue of not being able to register all arriving migrants. A prerequisite for the functioning of Dublin. Their asylum system was inadequate to cope with the high number of migrants, therefore the Commission launched the *Hotspots* system in order to aid member states. The Hotspot approach is today conducted in Italy and Greece with aid from the *European Asylum Support Office* (EASO)<sup>2</sup>, border patrol from Frontex and police assistance from Europol to register all migrants and speed up the process for asylum seekers in cooperation with the member states (European Commission, 2016g). The main functions of the Hotspot centres have been to increase reception capacities, improve registration procedures and strengthen coordination, thereby aiding the enforcement of the Dublin regulations. A special report conducted by the European Court of Auditors<sup>3</sup> to investigate the effect of the Hotspot approaches concluded that it has been effective in aiding member states and ensuring registration of asylum seekers (Pinxten et al., 2017). In other words, the enforcement of the Dublin regulations has become much better following the implementation of the Hotspot approach.

#### 4.2 The Dublin regulations

The European Council determined member states responsibility for examining asylum application in the European Community in Dublin 1990. *Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities* 97/C 254/01 or more commonly referred to as the *Dublin convention* was ratified and came into law for the member states in 1997, except Finland who ascended in 1998 (Eur-Lex, 1997). There are two fundamental issues that were resolved with the introduction of the Dublin convention: It established a common framework for all the member states where the first state the asylum seeker would enter into the European Community (EC) would be responsible for processing the application, the so-called *first-entry principle*. Secondly, that only one state would process the asylum application. Previously, the legal framework allowed for so-called *Asylum shopping* where asylum seekers could travel to the most preferable member states and apply for asylum there if their application was denied they could travel to another member state and start the asylum process over (Grant and Domokos, 2011). With the new rules, the EC sought to harmonize laws in all member states, hinder

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<sup>2</sup> EASO is a competence centre on asylum founded by the EU and provide expertise support on asylum procedures to member states of the EU. EASO. 2017. *EASO History* [Online]. European Asylum Support Office. Available: <https://www.easo.europa.eu/easo-history> [Accessed 16.05 2017]..

<sup>3</sup> An independent EU institution that checks EU funding are correctly used on a variety of policy fields.

potential “asylum shopping” and denying the chance to seek asylum in another member state if the application was denied in a previous member state. The convention also sought to hinder the ability to seek asylum in multiple countries simultaneously. The new rule was clear, that an asylum seeker is one member state’s responsibility. To accomplish this, information-sharing between the member states became an integrated part of the convention (Eur-Lex, 1997). The exception from the first-entry principle is when family reunification in another member state is possible, especially if the applicant is an unaccompanied minor. The convention also guarantees the right for personal interviews for each asylum seeker concerning their application and legal assistance if needed.

The Dublin convention marked the first step in harmonizing asylum policy in the European Community, this was further pursued during the Tampere conclusions in 1999, where member state sought to transform and harmonize several aspects of asylum policies in the European Union (EU) under the CEAS (Velluti, 2013:14, European Council, 1999). With harmonizing legislation in member states, the aim was to create a “single asylum space” where asylum rights would be protected and application procedures would be standardised, thereby creating a fair but effective asylum system. In light of the Tampere conclusions, the Dublin convention was reformed in 2003, *Council regulation (EC) No 343/2003* more commonly known as the *Dublin II regulation* which replaced the Dublin convention. Most of the rules on member states responsibility, refugee rights and information-sharing were carried over into the new regulation. A new provision on rights of minor asylum seekers was also included (Eur-Lex, 2003). Denmark was first exempted from the new regulation but later joined in 2006. While Norway, Switzerland, Iceland and Lichtenstein participated despite not being Member States of the EU, together all participants form the *Dublin countries* or the *Dublin area* (European Council, 2001, European Council, 2008, European Council, 2011).

The legal framework for asylum applications was again reformed in 2013 as *Regulation (EU) No 604/2013* or the *Dublin III regulation*, all Member States (except Denmark) as well as the non-member states who participated in Dublin II signed the regulation (Eur-Lex, 2013b). This new regulation included the previous separate regulation on *EURODAC*, a fingerprint database system used by all Dublin countries to check if asylum seekers have sought asylum in another Dublin country (Eur-Lex, 2013b, Eur-Lex, 2013a). Dublin III not only strengthened the ruling on border control but also asylum seekers rights with references to the European Convention of Human Rights and Charter of Fundamental Rights of the European Union. Under the new regulation, Dublin countries are also obliged to give information about their rights and the

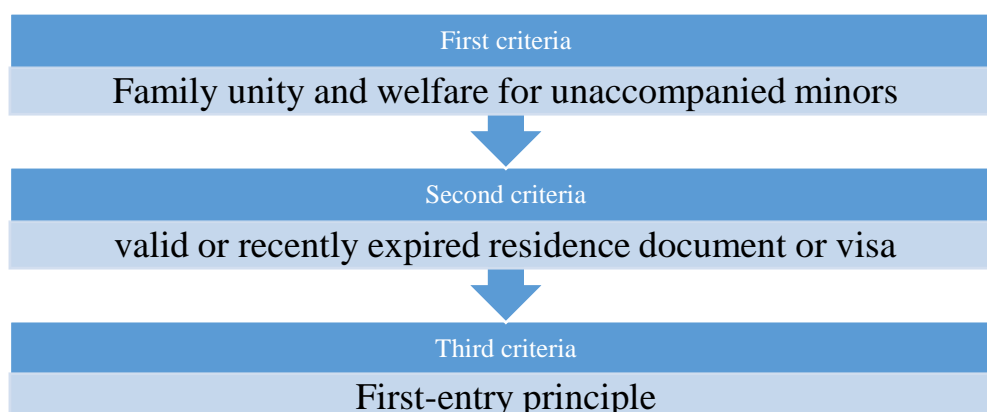
Dublin process to asylum seekers before any formal interview by border control or police. First time asylum seekers also have the right to appeal their case to a court or a tribunal (Eur-Lex, 2013b).

Which member state should take responsibility for which asylum seeker? This is one of the fundamental questions of the CEAS which the Dublin regulations gives an answer too. The responsibility is determined by a hierarchical criteria system, illustrated in figure 1 below. Taking precedence over other concerns, if the asylum seeker has family in a member state, this should be taken into consideration, the member state the family is located should take responsibility for the asylum application (Eur-Lex, 1997, Eur-Lex, 2003, Eur-Lex, 2013b). This is stressed in the Dublin III regulation, where especially unaccompanied minors should have their asylum application processed in the Dublin country where there are family members.

The second criteria concern those who have valid or recently expired documentation to stay in a member state, then the member state where the documentation was issued should take responsibility. In order to share information easier about visas, the EU and all member states are to register in the electronic system, *Visa Information System* (VIS), in that way it is easier for member states to check if an asylum seeker has a valid or recently expired visa in another member state (European Commission, 2017f).

The third and most common criteria is the first-entry principle. If family unity and documentation from another member state cannot be provided, the country where the asylum seeker is first registered entering the Dublin area should take responsibility for processing the asylum application. The principle is also the main focus of this thesis, as it is the most commonly used and where the degree of implementation varies the most.

**Figure 1: Criteria determining responsibility for asylum seekers**





The Dublin regulations have been controversial since their introduction, especially in those states that have an external border with other third-countries or the Mediterranean Sea, first-entry states who receive a higher number of asylum seekers and are obliged to process their asylum applications in order to comply with the Dublin regulations. Furthermore, first-entry states are also obliged to receive asylum seekers and their applications from other *second-* or even *third-entry* Dublin countries if it can be proven that they entered the first-entry state before traveling to another Dublin country. However, this transfer system is optional for second- or third-entry countries under the “sovereignty clause”, in other words, they can process the asylum applications voluntarily instead of returning them (Eur-Lex, 2013b). This clause has been used on some occasions, such as when Norway in 2008 refused to transfer asylum seekers back to Greece, under concerns that asylum rights were being violated (GHM, 2008).

Since the Dublin III regulation was implemented in 2013, the immigration situation in Europe has changed dramatically. In the EU, 431,000 asylum seekers came in 2013, 627,000 in 2014 and close to 1.3 million in 2015 (Eurostat, 2016b). Thus far in 2016 and 2017, it seems the number will drop compared to the record year of 2015, however, it still seems we are in a period with high numbers of asylum seekers coming to Europe in light of the situation in Libya and civil war in Syria. This, in turn, puts the Dublin regulations under pressure as first-entry countries such as Greece and Italy struggle with processing asylum application and ensuring the asylum seekers rights. In 2015 Hungary suspended the Dublin III regulation, refusing to accept asylum seekers being returned from other Dublin countries (BBC, 2015b). The same year, Germany decided to use the “sovereignty clause” for all Syrian asylum seekers, thereby taking a “burden” that otherwise would go to first-entry countries. Although the German case is not a suspension of the Dublin regulation, it definitely illustrates how the regulation has weakened in a period with higher number of arriving asylum seekers (Dernbach, 2015).

The Dublin regulations have failed to tackle some of the main challenges concerning asylum seekers. According to the official EU report evaluating Dublin III, mass influx of asylum seekers have led to insufficiently registration, accommodation and processing (Jurado et al., 2016:4). The report also problematize the concept of first-entry countries having to take on the bulk of responsibility for asylum seekers, and the fact that many choose to travel to other member states where the chance to get a permanent settlement and not being returned is higher. A report by the Asylum Information Database (2017) indicates that the entire system is very

ineffective if we consider that there are very few transfers compared to the total number of requests, as illustrated in table 4.

**Table 4: Rate of outgoing Dublin requests and transfers 2015-2016**

	2015			2016		
Country	Requests	Transfers	Rate	Requests	Transfers	Rate
<b>Spain</b>	-	-	-	10	2	20%
<b>Italy</b>	4,977	28	0.6%	14,229	61	0.4%
<b>Greece</b>	1,117	847	75.8%	4,886	946	19.3%
Germany	44,288	3,597	8.1%	55,690	3,968	7.1%
Switzerland	17,377	2,461	14.1%	15,203	3,750	24.6%
Sweden	11,254	1,964	17.4%	12,118	5,244	43.2%
Hungary	517	61	11.8%	5,619	213	3.8%

Source: (AIDA, 2017)

Only Greece had a high rate of transfers in 2015 with 75.8% but has since fallen in 2016 to 19.3%. Numbers in Spain is not available for 2015, but in 2016, the transfer system was barely used at all. In Italy, less than 1% of the requests put out are actually transferred. The number of successful transfers also seems low in other member states, putting the efficiency of the entire transfer system up for debate.

Overall, the current system does not work as intended. In 2016 the Commission announced that it will start the process of discussing the potential reform of the Dublin III regulation, which might, in turn, result in a Dublin IV regulation should the revisions be accepted (Maiani, 2016, European Commission, 2016j). The main proposed reforms include more transfer of power from the national state to the EASO, make it easier to apply legally for asylum and perhaps most significantly, the introduction of an allocation scheme which would “be triggered automatically if a member state to be faced with disproportionate numbers of asylum-seekers” (European Commission, 2016j). This mechanism uses the so-called *reference key*, which calculates the “fair” share of migrants in each member state based on population size and GDP. If the reference key is 100%, a country has taken their “fair” share. If it reaches 150%, the relocation mechanism will automatically be triggered and other member states would have to

take responsibility for more asylum seekers from that Dublin country or else risk a fine (European Commission, 2016k). While the Commission's proposal will alter the regulation significantly, it does not go as far as the European Parliament's proposal for a total reform of Dublin, moving away from the first-entry country principle and towards a real burden-sharing system (Ivanov, 2016). The discussions and negotiations for reform of the regulation will undoubtedly continue, and the final reform will probably move away from the current proposals.

**Table 5: The main components of the Dublin regulations**

<p><b>Dublin regulations</b></p>	<ul style="list-style-type: none"> <li>• First-entry countries have the responsibility to process the asylum application. However, family unification, especially for minors must be considered. If the asylum seeker has documentation of visa in another member state, this should also take precedent over the first-entry principle.</li> <li>• Second and third entry countries can transfer back asylum seekers to the first entry country, if it can be proven their original country of entry.</li> <li>• Guarantees personal interviews and free legal assistance if necessary for the asylum seekers.</li> <li>• Right to appeal one's case.</li> </ul>
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## 5 Spain

The next three chapters presents the empirical evidence for the three case countries. The chapters all share the same structural layout: First, there is a short overview of the routes into the country and overview of the asylum situation. The first section after will present the empirical evidence for the two variables: misfit and the number of asylum seekers. The second section concerns veto players, and the third and last part about state capacity.

One of the most prominent migrant routes to Europe is between Morocco and Spain, the so-called *Western Mediterranean route* (Frontex, 2016d). The two Spanish enclaves, Ceuta and Melilla, as well as the southern Spanish mainland is a common entrance route for asylum seekers into Europe. According to numbers provided by Frontex (2016d) over 10,000 illegal crossings were made in 2016, a record number compared to previous years, which has been around 7,000 the last five years. The migrants used to be economic migrants from North Africa, but the last few years there has been an increase from sub-Saharan countries. In 2015, Syrians were the biggest group taking this route. Despite being a popular route, it is still the least commonly used for migrants crossing the Mediterranean Sea. This is partly due to other routes such as between Libya and Italy, migrants are less likely to be returned and partly because of Spain and Morocco's strong cooperative ties on border protection at sea and land.

### Map 1: The Spanish enclaves Ceuta and Melilla



Source: (Google Maps, 2017)

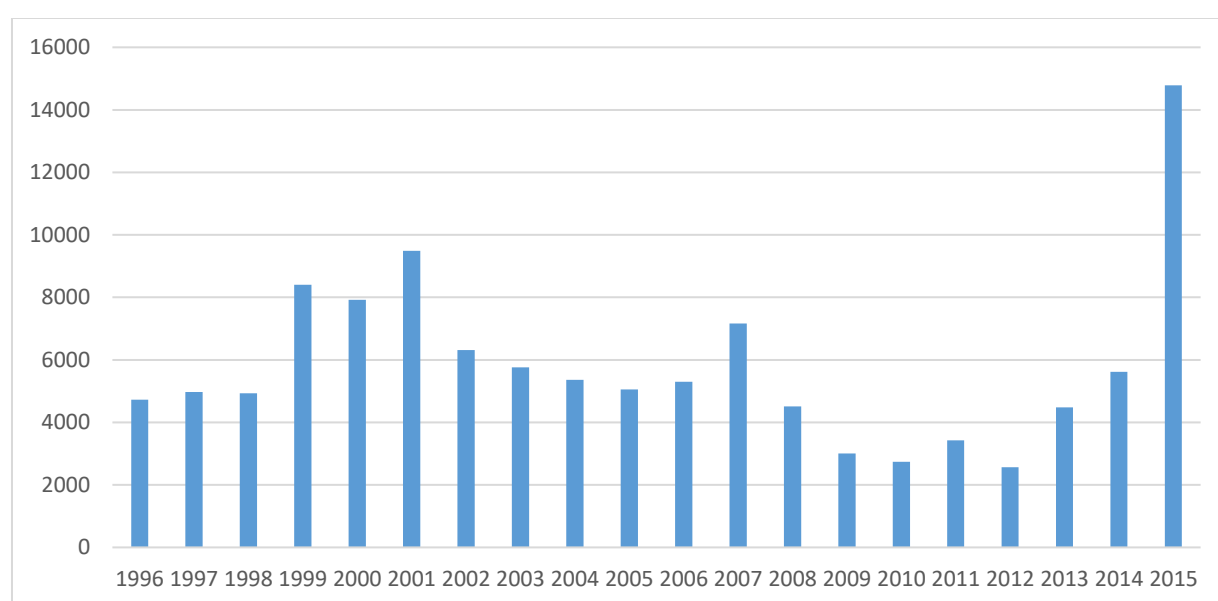
## 5.1 Misfit and number of asylum seekers

The right to seek asylum has a long tradition in Spain, being guaranteed under article 13(4) of the Spanish Constitution (Spanish Parliament, 1978). Other laws such as Law 12/2009 and the Royal Decree 203/1994 have been adopted in order to implement EU asylum policy such as the Asylum Procedure Directive, the Qualification Directive and the Family Reunification Directive, all part of the CEAS (Spanish Parliament, 1995, Spanish Parliament, 2008). In other words, the move towards a common European system has been well transposed in Spain.

Spain is structured as a decentralized state with considerable regional powers; however, the responsibility for asylum resides with the central state. Law 12/2009 Regulating the Right of Asylum and Subsidiary Protection (LRASP) defines refugees according to the UN's definition in the Convention and Protocol Relating to the Status of Refugees, which is the basis for the EU asylum framework (UNHCR, 1967). Under the LRASP, Spain accepts responsibility for those who claim asylum in Spain. Thereby ensuring the right to seek asylum.

Although the misfit when introducing the Dublin convention was not apparent in terms of the right of asylum seekers, there was definitely legal and policy misfit with the country's responsibility. With the first-entry principle, Spain was responsible for all those arriving from North Africa to Spain. The transposition of the Dublin convention was therefore with moderate misfit in Spain.

**Figure 2: Number of asylum seekers in Spain per year**



Source: (Eurostat, 2015, Eurostat, 2016a)

From Figure 2, we can see that the number of asylum seekers was not significantly altered between 1996 and 1997, the original Dublin convention being implemented in 1997. In fact, the number of asylum seekers is relatively stable during most of the years the Dublin system has been in place. In 2009 the number dropped to 3,005 asylum seekers, the drop can be linked to the Asylum Law 12/2009, which prevents free movement of asylum seekers reaching Ceuta and Melilla (Spanish Ombudsman, 2016:52). In other words, asylum seekers arriving in Ceuta and Melilla are not allowed to travel to the Spanish mainland.

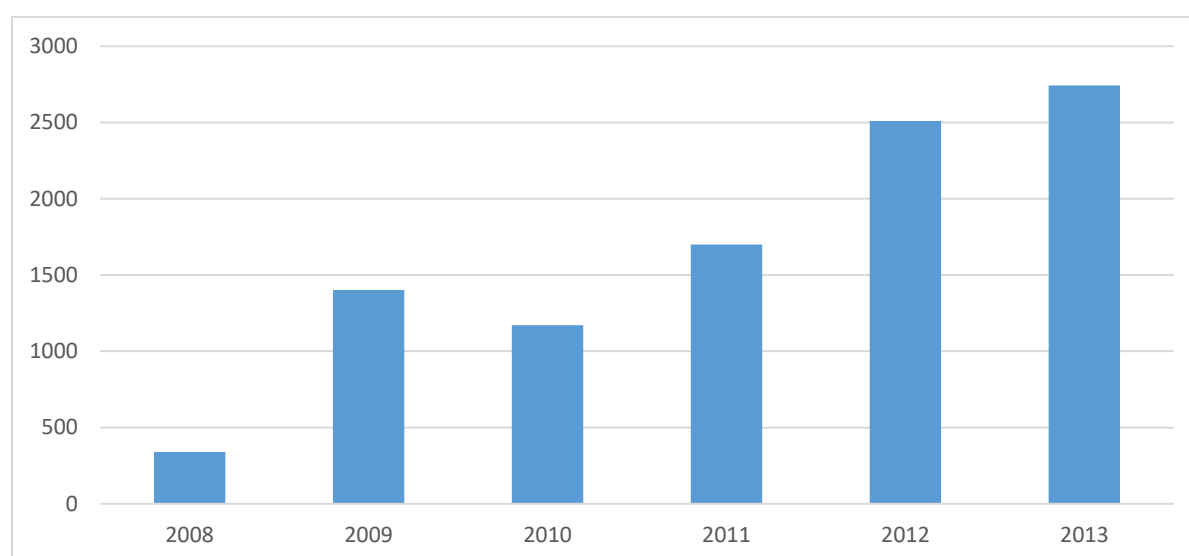
2015 was an exceptional year when the number of asylum seekers went from an average of 5,355 asylum seekers between 1996-2014 to 14,780 asylum seekers in one year. Still, the number is much lower compared to Italy who received 83,540, while Greece received a slightly lower number of 13,205 in 2015. There is, however, reason to believe that the number of migrants who do not seek asylum in Greece is much higher, and therefore the “pressure” of arrivals is greater in Greece than Spain. It is also important to recognise the difference in population and GDP, Spain has a population of 46,62 million and a GDP of 1,2 trillion USD dollars in 2015. Greece, on the other hand, has a population of 10,82 million and a GDP of 195 billion the same year. The increase in number of arrivals in Spain is therefore not a major issue, compared to that in Greece. The influx in 2015 was a direct result of the escalation in the Syrian civil war since almost half of the asylum seekers were Syrians, the second largest group being Ukrainians (Eurostat, 2016a).

The two enclaves of Ceuta and Melilla, located on the African continent have a special “rejection at the border” clause that allows them to send back illegal immigrants to Morocco. These cities, located on the North African continent, form the only land border between the EU and Africa. This presented a particular concern for the EU when the idea of a common external border and elimination of internal borders was contemplated and later formalised with the Tampere conclusions in 1999 (European Council, 1999).

In order to ensure strong border protection, cooperation between Spain and Morocco on border control was initiated with the readmission agreement of 1992, much of it funded by the EU (Kingdom of Spain and Kingdom of Morocco, 1992). The cooperation includes joint maritime patrols, sophisticated radar systems that can detect boats leaving from Morocco, money from Spain has also been used to finance Moroccan land borders, including a fence on the Moroccan side of Ceuta and Melilla (Spanish Ombudsman, 2016:52). Spain has similar readmission

agreements with Senegal and Mauritania; both are major transit countries for migrants entering Europe. According to Frontex, the cooperation with the transit countries are a major reason why the number of migrants reaching Spain has been low (Frontex, 2016a:6). Frontex also points to the migrant route between Western Africa and the Canary Island, which has almost been completely halted following the close cooperation between Spain and the African countries. Overall Spain has been extremely successful in cooperating with countries in order to reduce the number of migrants and asylum seekers to reach Spanish territory.

**Figure 3: Incoming transfer requests to Spain, submitted by other Dublin countries**



Source: (Eurostat, 2016c)

We do not have much statistic on transfer requests related to the Dublin regulations. Eurostat began collecting such data from 2008. However, for Spain data on transfer request is lacking for 2014, 2015 and 2016. Hence, only six of the twenty years when the Dublin regulations have been in place have official data on the number of transfer requests directed towards Spain, shown in figure 2. In 2008, there were only 339 incoming requests, since then the number has increased over the last years, reaching 2,744 requests in 2013. The increase can partly be attributed to a general increase in asylum seekers and migrants the last few years. Of the case countries, Spain is in the middle with the number of transfer requests, for comparison, in 2013 Greece received only 74 transfer requests while Italy received 15,532. The reason for Greece's low number of transfer requests is a result of a court decision of suspending transfers, while

Italy is the member state with the single largest number of receiving transfer requests from all the Dublin countries. In this sense, Spain experience a more “normal” number of requests.

The moderate number of arriving migrants has definitely made the implementation of Dublin easier than it could have been. Thereby strengthening hypothesis 3, concerning the number of asylum seekers.

## 5.2 Veto players

Spain is perhaps the most decentralised country in Europe with 17 autonomous regions all having significant political and economic power, this is especially the case for the Basque and Catalan regions playing the role of veto players in Spanish politics (Berntzen, 2012:283). Spain has a centre-oriented party system where the moderate socialist party and the moderate conservative party compete for power, although increasingly regional separatist parties have increasingly joined coalition governments (Hopkin and Biezen, 2011:104-105, 107-108). This has led to more powerful third parties in parliament, which has traditionally been controlled by the two moderate parties. Following the 2015 election, the traditional party system with a strong centre-right and centre-left party was disturbed by *Unidos Podemos* a left wing party becoming the third-largest party in the country. Although the conservative party *People's Party* still has the prime minister and remains the largest party in parliament, the traditional centre-left *Socialist Workers' Party* has been weakened, a party with traditional links to labour unions who can act as veto players (Encyclopædia Britannica, 2017).

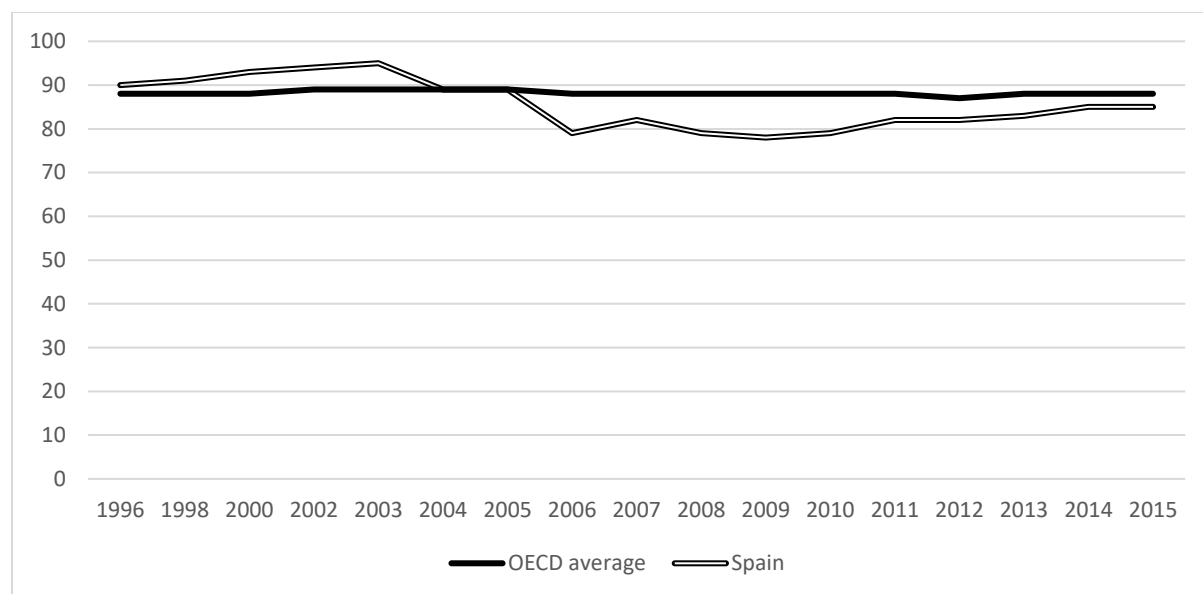
There does not appear to be resistance against the Dublin regulations among veto players in Spain. Although the regions have great autonomy, the federal state is in the end responsible for asylum seekers and enforcing the Dublin regulations, although the regions have some autonomy when it comes to sheltering and providing for the asylum seekers (Spanish Parliament, 2000). In fact, Spain has been in favour of European solutions and a fairer burden-sharing, last illustrated when prime minister Rajoy and German Chancellor Merkel held a press conference on the issue during the influx year of 2015, calling for a stronger European system (EFE, 2015). Although the Dublin regulations seem to be agreed upon, this is not to say the question of asylum seekers is uncontroversial. For instance, the relocation programme set up by the Commission to relieve Italy and Greece, Spain has by April 2017 pledged to take 900 asylum seekers, while the Commission has asked Spain to take 8,456 (European Commission, 2017e).



Still, there does not seem to be any veto players in Spanish society that are willing to compromise the current Dublin framework. The veto player argument is therefore not a factor that can be used to understand implementation, in contrast to the assumption in Europeanization theory. Thereby weakening the theory's explanatory power.

### 5.3 State capacity

**Figure 4: Average Government Efficiency in OECD compared to Spain**



Source: (Worldwide Governance Indicators, 2017)

The Government Efficiency indicator (discussed in section 3.3) reveals that Spain's state capacity has a high score on average in the period the Dublin regulations has been applicable. Between 1996-2004 Spain scored above or at the OECD-average, before falling slightly below the average between 2005-2015. 2006 Being the lowest point with the score of 70 before gradually increasing to 85 in 2015. Compared to the other two case countries, Spain is the highest scoring country on the index with an average of 85,6, Italy has an average score of 70,5 while Greece 71,9. In other words, the state capacity in Spain has consistently been relatively high, with just a slightly lower score than the OECD average the last few years. This is also line with the Commissions official view of Spain's compliance with the Dublin rules.

There has not been a single use of the infringement procedure towards Spain concerning the implementation of the Dublin regulations. This is not to say that Spain has a perfect track record in implementing asylum policies, there have been repeated breaches of European legislation

concerning rights of asylum seekers such as Council Directive 2004/83/EC, Council Directive 2005/85/EC, Council Directive 2005/85/EC, Council Directive 2005/85/EC all of which relate to the standard for granting refugee status (European Commission, 2017b). Lack of implementation does seem to be an issue when concerning key legislation on refugee protection, but not on asylum seeker procedures under the Dublin regulation, if we are to believe the Commission's official infringement procedure.

According to the Commission's own evaluation of the implementation of the Dublin III regulation and data from the Asylum Information Database (AIDA), Spain has been very successful in enforcing the rulings set up under the regulation (Jurado et al., 2016:20, Queipo de Llano and Zuppiroli, 2016). There is, however, one issue of concern mentioned in the report: many asylum seekers that are transferred to Spain from another member state, never lodge a claim for asylum in Spain. Instead, they chose to go back to the member state they were sent from (Jurado et al., 2016:61). This undermines the Dublin system, as Spanish authorities are in fact responsible for their requests in the EU. However, Spain has limited possibilities to hinder asylum seekers to leave for other countries, the Schengen agreement makes travel internally in Europe easy, at the same time it is illegal in Spain to detain asylum seekers (Jurado et al., 2016:69). Another concern is that Spain has failed to comply with the second criteria of the Dublin III that having an expired visa from Spain means they also have the responsibility if they chose to apply for asylum in the EU. According to the Dublin III regulation under article 12(4), suggest a hit in the Visa Information System is sufficient evidence of their visa, while Spain requires the requesting member state to show a copy of the passport with the visa stamp (Eur-Lex, 1997, Jurado et al., 2016:24). However, these issues are minor challenges compared to the main premise of the Dublin regulations – the first entry principle, which is enforced.

The Ministry of Interior (*Ministerio del Interior*, MoI) is the authority with the primary responsibility for matters relating to asylum, the Spanish Office for Asylum and Refugees (*Oficina de Asilo y Refugio*, OAR) is the unit within the MoI responsible for processing asylum applications and carrying out the Dublin regulation (Rodríguez-Ferrand, 2016). OAR does have most of the responsibility of asylum seekers including the administrative work, ensuring the asylum seekers rights, issuing and handling transfer requests, but if a case is appealed, the responsibility to process the case lies with the Spanish judiciary. A migrant who wishes to apply for asylum in Spain needs to apply directly to the OAR or the Spanish police. There are two courses of procedures following an asylum application in Spain, regular and urgent. Regular having a deadline of six months while the urgent procedure is typically conducted when the

application is manifestly well-founded or the applicant comes from a country considered safe for return, the procedure usually taking less than four days. The procedures and the organisation of the asylum system seems to be up to task with enforcing the Dublin III regulation, as there are no major breaches by the Commission's own report, infringement procedure or independent evaluations (Jurado et al., 2016, European Commission, 2017b, Queipo de Llano and Zuppiroli, 2016:20).

In general, both the Commissions own reporting and other factors such as GE, indicate the strong state capacity, and that this is a vital factor in Spain's successful implementation of the Dublin regulations. Also considering that Spain has never had an infringement procedure in its enforcement of Dublin, one can assume with ease the Spanish state capacity has been up to the task, strengthening the state capacity hypothesis.

## 6 Italy

The *Central Mediterranean route* between Libya and Italy has for many years been a high frequent route for migrants, especially for Sub-Saharan migrants from Niger, Somalia and Eritrea (Eurostat, 2015). Asylum seekers typically depart from the coast of Libya and arrive in Lampedusa, and to a lesser degree in Sicily and the southern tip of mainland Italy (Frontex, 2017). A bilateral agreement between Italy and Libya in 2009 resulted in a major reduction of migrants, this changed in 2013 following the collapse of the Gaddafi government and a de facto failed Libyan state. Today the smuggling networks in Libya are some of the world best organised and commonly used, more than 150,000 people took the sea route to Italy in 2015 (Frontex, 2017), making Italy the state with the most arriving migrants in Europe, and one of the member states with the most asylum applications. Hotspots have been established on Lampedusa, Sicily and one on the Southern tip of the Italian mainland as can be seen in map 2.

**Map 2: Italy - Hotspots and the asylum headquarter in Catania**



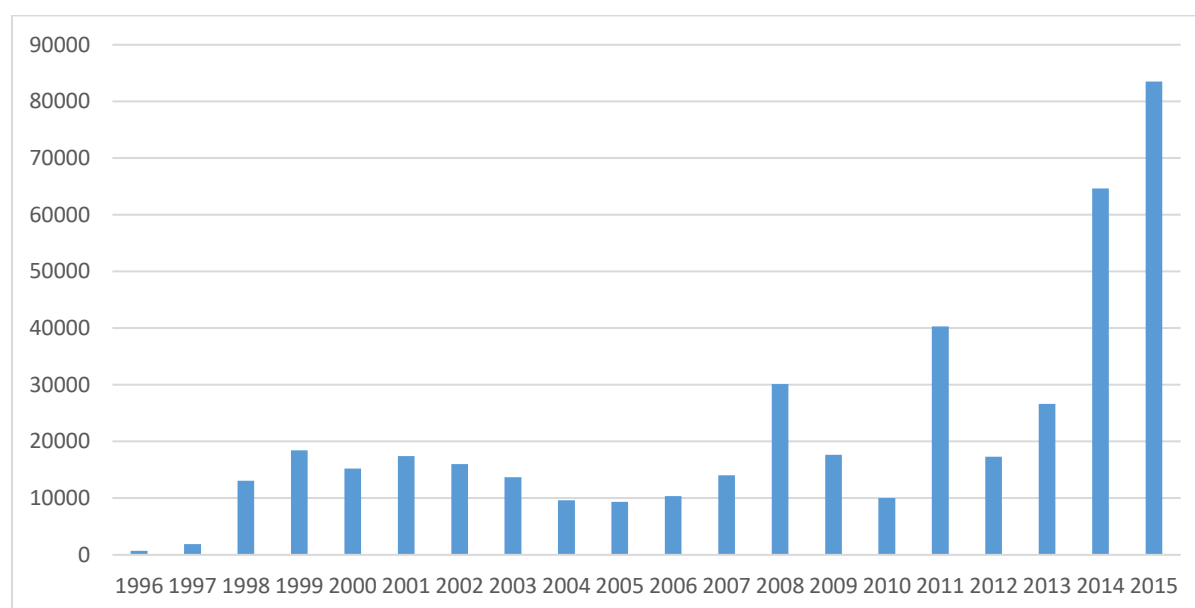
Source: (European Parliament, 2016b)

## 6.1 Misfit and number of asylum seekers

The right to seek asylum in Italy stems all the way back to 1947, being one of the very few countries in Europe where the right to asylum following prosecution in one's home state is specified in the constitution (Italian Senate, 1947). Apart from national law, Italy has signed major international law for protection of refugees and the right for asylum such as the *Universal Declaration of Human Rights*, *European Convention of Human Rights* and *The Convention and Protocol Relating to the Status of Refugees* (United Nations, 1948, Council of Europe, 1950, UNHCR, 1967). As a result, when the Dublin convention came into force in 1997, Italy already had a well-established asylum system in accordance with international asylum law. According to Gennaro Capo (R4) at the Permanent Representation of Italy to the EU, there was not a major legal transition for Italy when the Dublin system was introduced, but the numbers of asylum seekers and migrants changed significantly, being a much more important factor when understanding implementation.

Both policy and legal misfit were moderate when the Dublin convention was introduced, as human rights and the right to seek asylum, was already a part of the Italian law. Italy did, however, gain more obligations as it became a first-entry state with responsibility for all those who first arrive in their territory. This resulted in Italy experiencing a moderate level of misfit.

**Figure 5: Number of asylum seekers in Italy per year**



Source: (Eurostat, 2016a)

As shown in Figure 5, the number of asylum seekers in 1996 and 1997 was 680 and 1,890. The year after the convention took effect the number rose to 13,100. Since then, the number of asylum seekers has never been under 9,000 and at times reached over 30,000, such as in 2008. In 2009, Libya and Italy reached a bilateral agreement that allowed the Italian coast guard to intercept migrants at sea and tow them back to Libya. The agreement in combination with Libya enforcing its own border and cracking down on illegal smuggling resulted in lower numbers of migrants and a subsequently lower number of asylum seekers in Italy both in 2009 and 2010 (Frontex, 2017).

Following the bilateral agreement with Libya, Italy was ruled against in the European Court of Human Rights in *Hirsi Jamaa and Others v Italy*, the case concerned the Italian navy forcibly returning migrants at sea back to Libya, breaching international asylum law which the Dublin regulations are founded on (European Court of Human Rights Grand Chamber, 2012). The situation in Libya changed dramatically with the Arab Spring and subsequently increased violence in 2011, resulting in an increase of asylum seekers departing from Libya to Italy. A new agreement was brokered with the new Libyan government in 2012, resulting in a decrease of asylum seekers in 2012 and 2013 (Nielsen, 2012). However, the last few years the instability and violence in Libya have yet again escalated, this in combination with migrant pressure from Sub-Saharan Africa and well-organised smuggling networks have resulted in record numbers of asylum seekers to Italy in 2014, 2015 and 2016. Although the enormous increase in the number of arrivals the last few years, it is worth noting that Italy has by far the largest population and GDP of the three case countries. Therefore, although the increase is significant, Italy is still in a better position than Greece in handling the arrivals.

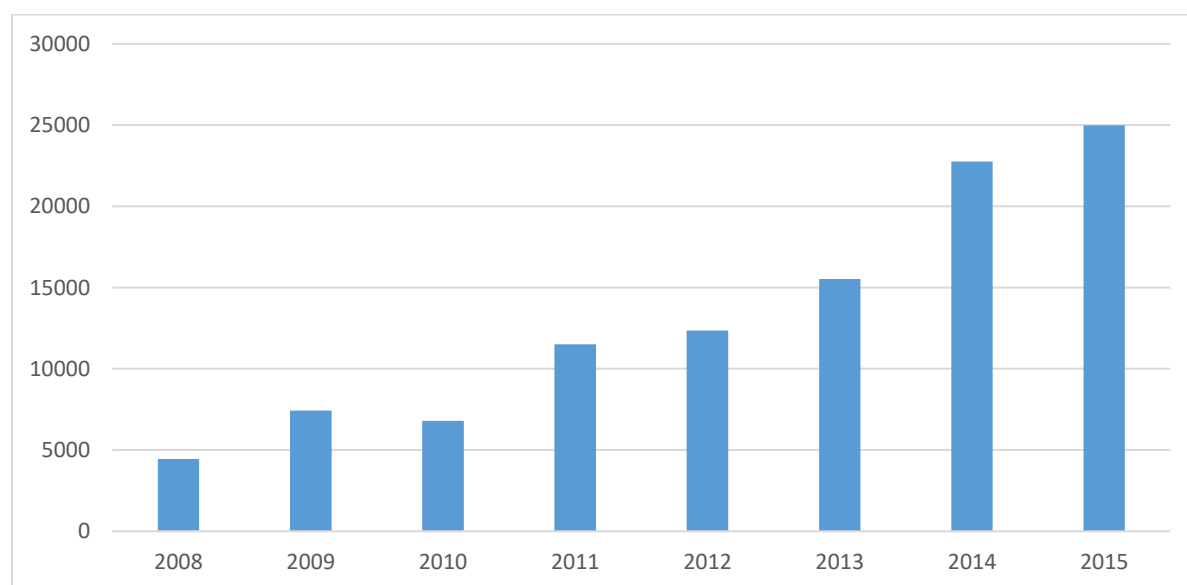
Before the Arab Spring, the question was not whether Italy could deliver on its obligations concerning its responsibility to register and take care of the asylum seekers who would arrive. The numbers at the time were limited; in 2010, only 10,000 asylum seekers were registered. Instead, the criticism arriving at the time were concerning human rights breaches and Italy preventing migrants reaching its shores, forcing boats back to the sea, and its agreement with Libya to block illegal migrants from leaving (Amnesty, 2013). The result was fewer migrants reaching Italy and fewer asylum seekers, but after the Arab Spring the situation changed and the numbers increased.

The dramatic increase in migrants traveling over the Mediterranean Sea, from Libya to Italy, triggered the Italian operation *Mare Nostrum*, following the increased shipwrecks and deaths of people trying to reach Europe (Yardley and Povoledo, 2013, BBC, 2013). The Mare Nostrum

operation was tasked with humanitarian relief, ensuring that migrants would not drown, and bringing them safely back to Italy to start the asylum process (Italian Navy, 2013). Mare Nostrum was later replaced by the EU lead *Triton* in 2014 (European Commission, 2014b). Both operations resulted in more migrants reaching Italy and being able to apply for asylum, thereby fulfilling Italy's commitment for refugees and the right to apply for asylum, however, it also posed a challenge with the number of asylum seekers reached record highs.

One of schemes intended to aid Italy in managing the number of asylum seekers is the relocation programme set up by the EU. Although fewer than 20,000 asylum seekers in Italy and Greece out of the 160,000 the European Commission aimed for has been resettled, the Italian officials I spoke to considered the programme a helpful element in relieving some of the pressure caused by the considerable increase of asylum seekers in both 2014 and 2015 (Capo R4, Villa R12). It is not, however, a long-term solution that can aid Italy substantially in the future as the political will is currently limited in many other member states to take in more asylum seekers from Italy. It also seems political difficult for the Commission's proposal to create a "corrective allocation mechanism", under the Dublin IV framework would be viable. The mechanism is based on a reference key that would allow Italy to transfer asylum seekers to other member states if the numbers of asylum seekers go beyond a certain threshold based on the GDP and population of the country. While the new reforms are uncertain, the current situation is aided by the relocation programme, but considering the low number of resettlements, it has not been as helpful as it could have been.

**Figure 6: Incoming transfer requests to Italy, submitted by other Dublin countries**



Source: (Eurostat, 2016c)

When we look at the number of transfer requests issued by other member states to Italy, as presented in figure 6, we can see the number has increased gradually. In 2008, there were 4,447 transfer requests, while in 2015 the number had reached 24,990 transfer requests. It is evident that Italy has had issues in fulfilling its obligations as a first-entry country where the asylum applications should have been processed. Italian authorities cannot force migrants to apply for asylum on their territory, but they are responsible for them. Many migrants choose to travel to other member states and apply for asylum there. In fact, the high number of transfer requests also reflects Italy's ability to register those who arrive. By registering the arriving migrants, it subsequently makes it easier for other member states to prove that asylum seeker in their country originally entered in Italy. This, in turn, makes it easier to evoke a transfer request.

Jessica Villa (R12) with the Italian Dublin Unit points to the establishment of Hotspots as an important factor in the registration of asylum seekers and fingerprinting. A total of six Hotspots have been established in Italy, four of them on Sicily, one on the southern island of Lampedusa and one on mainland Italy (see map 2). In Italy, the Hotspots are used to channel asylum seekers to regional hubs where the asylum process starts (De Donato, 2015:15). This approach has been very successful with the registration of the newly arrived migrants; a study conducted by the European Council on Refugees and Exiles conclude that Italy through the Hotspot system has reached almost 100 percent registration of arriving migrants, thereby fulfilling a major obligation to the Dublin Regulation (Papadoulou, 2016:11). This was not the case before the Hotspot system, where a majority of the migrants arriving in Italy did not register, and chose to apply for asylum in other member states (De Donato, 2015:24). Now, as the migrants are registered, other member states can check the European fingerprint database Eurodac and determine the migrant arrived in Italy, thereby transferring them back for Italy. This is not to say there are not issues concerning registration. In 2013, The Italian Council for Refugees reported cases where asylum seekers refused to be fingerprinted in order to be subjected to the Dublin procedure, and travel to another member state to apply for asylum there (De Donato, 2015:38).

The implementation of both the relocation scheme and the transfer request system has led to situations where asylum seekers leave for other member states through the relocation scheme, but at the same time, many are returned to the same member state through Dublin transfers. Between January and November 2016, the total number of transfers to Italy was higher than the number of relocated asylum seekers to other member states as seen in the table below.



**Table 6: Transfers of asylum seekers to and from Italy 1 January–30 November 2016**

	Transfers from Italy			Transfer to Italy
	Relocation	Outgoing Dublin transfers	Total out	Incoming Dublin transfers
Netherlands	331	0	331	64
Finland	322	2	324	21
Portugal	261	2	263	1
France	231	4	235	136
Germany	207	15	222	129
Switzerland	133	3	136	817
Spain	50	0	50	0
Malta	47	0	47	0
Romania	43	0	43	0
Luxembourg	40	0	40	14
Sweden	39	4	43	118
Belgium	29	3	32	96
Slovenia	23	2	25	1
Norway	20	1	21	60
Cyprus	10	0	10	0
Croatia	9	0	9	0
Latvia	8	0	8	0
Austria	0	5	5	433
UK	0	5	5	27
Hungary	0	4	4	1
Czech Rep.	0	1	1	4
Denmark	0	0	0	51
Poland	0	0	0	5
Slovakia	0	0	0	5
Iceland	0	0	0	1
<b>Total</b>	<b>1803</b>	<b>51</b>	<b>1854</b>	<b>1984</b>

Source: (AIDA, 2017)

Table 6 show that there were more asylum seekers being transferred to Italy than relocated from Italy. This clearly shows the limitations of the current relocation programme and the current limitations of the Dublin system in general. The paradox of the system is that Italy remains a net recipient of the European asylum system, despite the relocation programme's intention of relieving Italy. In other words, the large number of asylum seekers in Italy remains a major challenge and contributes to the lack of implementing the Dublin regulations and the relocation programme is, for now, inadequate to significant help Italy.

The empirical evidence suggests there is definitely issues in enforcing Dublin in Italy as a result of the high number of arriving migrants and asylum seekers. This strengthens hypothesis 3, more asylum seekers makes the implementation more difficult.

## 6.2 Veto players

An important institutional veto player in Italy is the bicameral parliament, which is not easily covered by the executive branch of government. In fact, the political parties in parliament have often fiercely resisted executive decisions. The president also has counter-powers vis-à-vis the government, and there is a constitutional court. All of these institutions are designed as checks and balances. (Hine, 2011). One could argue that the Italian veto players have too much power as governments cannot even rely on their own party's representatives in parliament, resulting in continuous weak governments, the result has been 63 governments over the last 70 years (The Economist, 2016). The Italian parties' control resources directed to the public-service, broadcasting and even the judiciary resulting in a patronage system where the political parties have tremendous power in society as well as over the government (Hine, 2011:42).

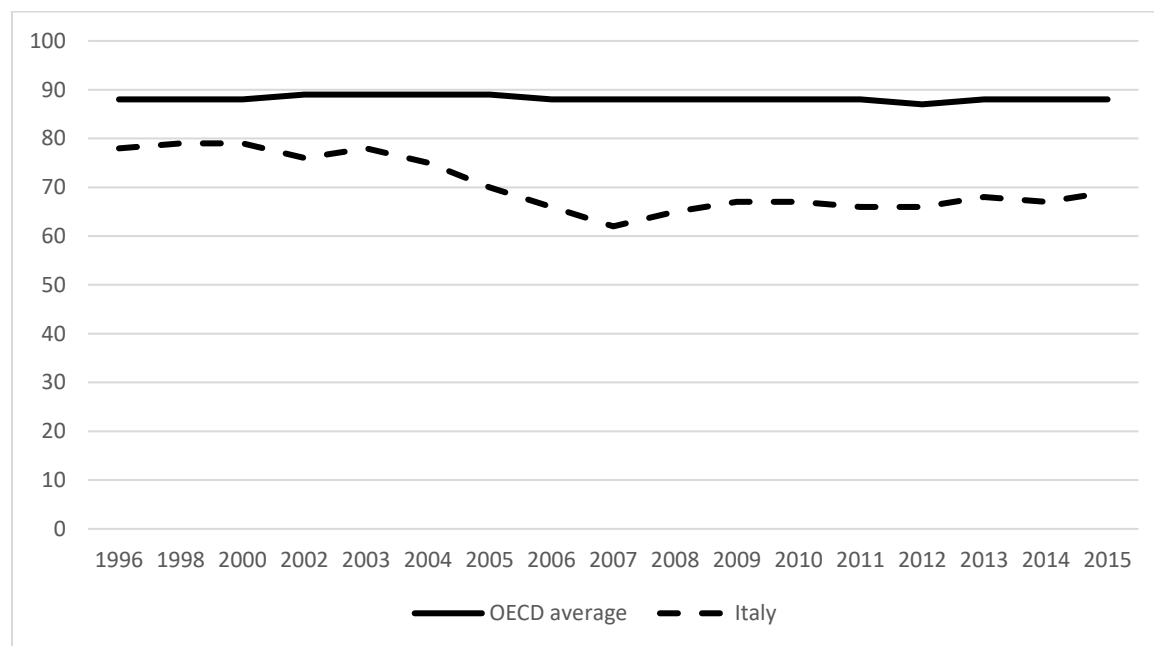
The Dublin regulations are controversial, but among the leading political parties, not as much as one would expect. No political party wants Italy to dismantle the regulation or the European approach to establish a common asylum system. However, the first-entry principle has been criticised by the Northern League, a major political force in Italy (Dell'Atti R11). The current centre-left government is a supporter of a common asylum approach, setting up Hotspots, thereby increasing registration of migrants. Nevertheless, a new government with the Northern League may change the situation. More controversial in Italian society is immigration in general and other European legislation such as the Schengen agreement, but the Dublin III regulation itself seems to be accepted. This is not to say there is not an aspiration among political parties to change the system. On the contrary, there is a broad consensus that a more equal distribution of asylum seekers, and a fair share of responsibility and financial cost is preferable and something the Italian government seeks when discussing the reform of the Dublin system (Capo R4).

There does not seem to be any organised resistance towards the Dublin regulations from the prominent political parties or other parts of Italian society. This is in contrast to the suggestion in the Europeanization theory, which assumes veto players are important in explaining

implementation and that countries with many veto players such as Italy, will have a hard time implementing EU law.

### 6.3 State capacity

**Figure 7: Average Government Efficiency in OECD compared to Italy**



Source: (Worldwide Governance Indicators, 2017)

According to the Government Efficiency index, Italy scores consistently below the OECD standard from between 1996 and 2015. While the OECD average is at 88, Italy range between 62 and 78. Poor state capacity seems to have been a decisive factor in Italy failing to comply with the Dublin regulations. The issue of enforcement is probably best summarized in the two formal infringement procedures taken by the Commission against Italy in relation to the Dublin regulations (European Commission, 2017c). The first infringement was taken by the Commission in 2012 against several asylum directives, including the Dublin II regulation. The Commission was concerned with the lack of responsibility taken by Italy at the time; the infringement procedure resulted in a Letter of Formal Notice, the first and least severe of the infringement steps. However, the case is technically still active and the Commission can further pursue legal steps. The second infringement case was decided on in October 2014 concerning alleged violations of the Dublin II regulation and resulted in a Letter of Formal Notice. The infringement case was closed in February 2017 without further steps. As previously discussed,

the infringement procedure does not represent an accurate picture of the lack of compliance, but rather the Commission's formal response. However, for the Commission to take such a serious step as starting a formal infringement procedure, the lack of enforcement has had to be severe and over a significant period of time.

The responsibility for asylum procedure is shared by the Italian police with the police's regional service *Questura*, the civil *Dublin Unit* under the Ministry of the Interior, *Territorial Commissions or Sub-commissions for International Protection* (CTRPI) and the court system (De Donato, 2015:18). The *Questura* is responsible for registration, fingerprinting and photography of asylum seekers and initial screening interviews. The information is then sent over to the Dublin Unit to check if the individual has sought asylum or been registered in another member state, if not, Italy is usually deemed responsible for the asylum seeker. The CTRPI then conducts the asylum interview, which should be conducted no longer than 30 days after the asylum claim is lodged, and later reach a decision if the individual should receive asylum or not. If the case is appealed, the civil courts handle the case. There is also what is called the prioritised and accelerated procedure which allows people where the evidence to gain asylum or be rejected is sufficient upon arrival. The *Questura* has met criticism for not being able to uphold Article 27 of the Dublin III regulation, where an asylum seeker has the right to appeal one's case if one is meant to be transferred to another member state, but the transfer itself takes place before the 60 days to appeal has expired (ASGI, 2016).

Having responsibility to determine if Italy is responsible for the asylum seeker, the Dublin Unit is also responsible for all transfer requests. The unit is organised into two sectors, an incoming and an outgoing. The incoming sector is responsible for all requests sent to Italy by other member states, replying and organising the transfer itself. Meanwhile, the outgoing sector is tasked with returning asylum seekers to other member states if it can be proven they are registered in another member state before arriving in Italy. According to Jessica Villa (R12), an official at the Dublin Unit, the system work well, apart from the lack of personnel. The unit has to deal with many asylum seekers, but considering the number of asylum seeker, the unit does not have the sufficient manpower in order to enforce their duties optimally. This claim is supported by the Asylum Information Database report on Italy, where lack of staff is a recurrent theme, that results in poorer enforcement of the refugee's rights (De Donato, 2015:47). Despite the lack of compliance, Italy has taken important steps in regard to organising the asylum institutions in order to fulfil their commitments under the Dublin III regulation.

According to the Commission's own evaluation of the implementation of the Dublin III regulation conducted in 2016, there are several minor concerns regarding the lack of interpretation for the personal interviews, conditions at the reception centres, lack of information provided to asylum seekers about their rights, and upholding deadlines (Jurado et al., 2016). However, the main principals of the first-entry system and transfer requests are upheld. Although, there is reason for concern. In February 2017, the Danish and Swiss Refugee Council (2017) released a report on the conditions for those transferred to Italy, following transfer requests under the Dublin III regulation. The report states that the reception centres were lacking in sufficient accommodations, especially for families, with lack of information upon arrival. In other words, there are challenges with the enforcement of the Dublin framework in Italy, but the main commitments of the Dublin III regulation are maintained.

Overall, the empirical evidence suggests the Italian asylum system is able to uphold some parts of the Dublin system, but there are several issues and room for improvement. The lack of staff seems to be a main reason for Italy's lack of compliance. Suggesting that if the state capacity had been better, with more staff, Italy would be in a better position to ensure the implementation of the Dublin regulations. This strengthens the importance of state capacity as an important variable in explaining implementation, strengthening this assumption in Europeanization theory.

## 7 Greece

Greece was one of the original signatories to the Dublin convention in 1990. The Mediterranean country has since been a common first-entry state in Europe for many arriving migrants. The most common entrance route is from Turkey to Greece, both by various sea routes to Greek islands and the northern land border. Most of these migrants have the last years come from Syria, Afghanistan, Somalia as well as several sub-Saharan states (Frontex, 2016b). The Hotspots on the Islands of Lesvos, Chios, Samos, Leros and Kos, set up by the Commission in Greece is visualised in map 3.

**Map 3: Greece - Hotspots and the asylum headquarters in Piraeus**



Source: (European Parliament, 2016a)

### 7.1 Misfit and number of asylum seekers

Greece has signed the *Geneva Convention and Protocol Relating to the Status of Refugees* and the *European Convention on Human Rights*, the documents are the foundation for the Greek asylum system (UNHCR, 1967, Council of Europe, 1950). Both conventions oblige Greece to respect the right to seek asylum. If the asylum seeker risks unfair prosecution and/or risk of

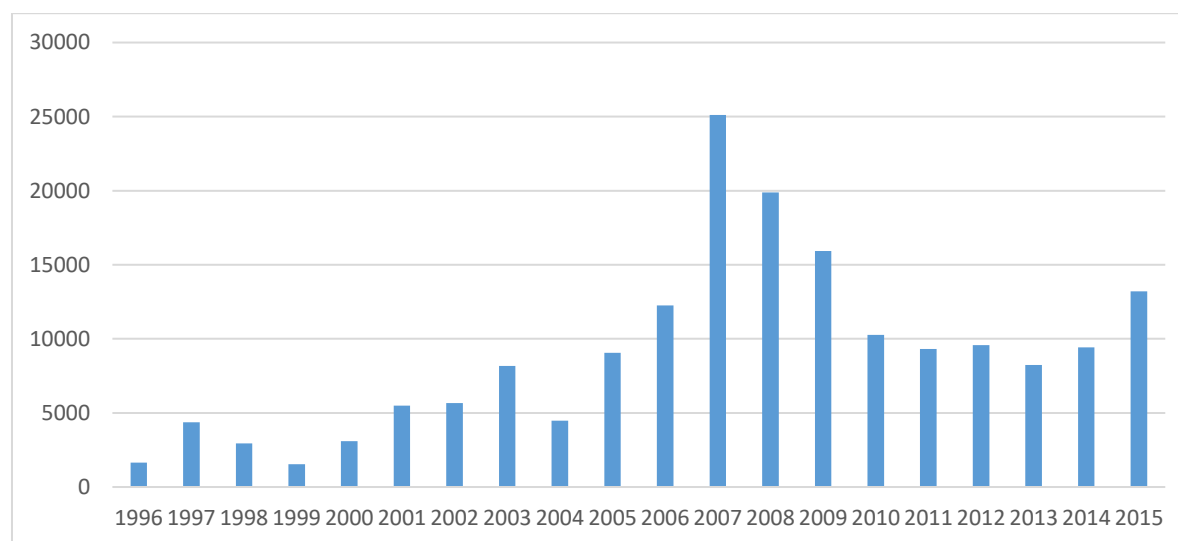
once life in the home country, Greece is obliged to grant them asylum. These rights are carried over in Greece's asylum law of 1959 and the ratification of the Geneva convention in 1967 (Greek Government, 1959, UNHCR, 1967). Therefore, the foundation of asylum rights was already in place before the Dublin convention.

What was new under the Dublin convention was Greece's transformation to a first-entry state on the common EU-border, with the responsibility of enforcing EU's external border. The old laws did not include transfer requests between states, and information sharing. Therefore, the policy and legal misfit when transposing the Dublin convention were moderate, with some adjustment in the law text and practices, but the fundamental principle of human rights and asylum rights was already in place.

Although the number of asylum seekers was low the first few years after the Dublin convention was transposed, the implementation of the policy has been lacking. Failing to register the arriving migrants, as well as many of the migrants traveling to other European member states to seek asylum there. The first few years, the number of arrivals would remain low, making the situation less severe than it could have been.

When Greece signed the Dublin convention in 1990, the number of arriving asylum seekers to Europe and Greece was quite low, especially when comparing to the record numbers during the influx of migrants in 2015. Frontex (2016c) reported that there were 885,386 migrants crossing Turkey into Greece in 2015, most of them did not apply for asylum, but instead, travel to, or intend to travel to other EU countries.

**Figure 8: Number of asylum seekers in Greece per year**



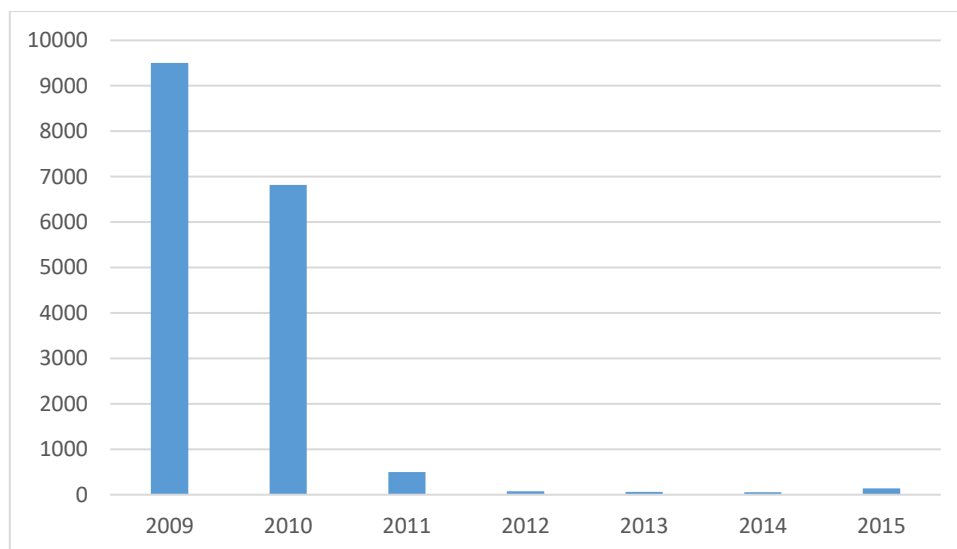
Source: (Eurostat, 2016a)

If we look at the annual number of asylum seekers in Greece (displayed in figure 8), we can see that between 1996 (the year before the Dublin Convention came into force) and 1997 there was an increase from 1,640 to 4,375. It is still difficult to determine if there is any correlation between the increase in numbers and the implementation of the Dublin convention, especially when the numbers decreased to 2,950 asylum applicants in 1998. The numbers are quite stable until 2006 when the numbers increased to 12,265. The number of asylum seekers was also significantly higher in 2007, with a total of 25,115. Before a decrease followed the continuous years. The numbers remained stable until a new increase in 2015 to 13,205.

One may conclude that the large gap between the number of arrivals and asylum seekers is a result of the inadequate Greek asylum system in the registration of those who want to seek asylum. However, this is in contrast to the statements of all actors I have interviewed about the issue and the empirical evidence provided by the Commission on the implementation of the Dublin III regulation (Jurado et al., 2016). Instead, what the findings indicate is that the number of asylum seekers is low because most migrants that reach Greece do not apply for asylum there, but travels or attempt to travel to other member states for reasons such as family reunification, welfare, language and better prospects of getting residency. Mark Camilleri from EASO supports this, “as we know many of the migrants coming to Greece move to other countries, to Germany, Sweden and other countries” (R1 Camilleri). This indicates that most migrants do not apply in Greece, and since 2011 all transfer requests to Greece has been halted. As a result, migrants leaving Greece to other countries do not risk being sent back, further incentivising migrants to seek asylum outside of Greece. As displayed in figure 4, only a handful of asylum seekers were returned to Greece after 2010, those who were primarily returned for family reunification.



**Figure 9: Incoming transfer requests to Greece, submitted by other Dublin countries**



Source: (Eurostat, 2016c)

Since the adoption of the Dublin regulations, Greece has come under criticism for a long time concerning their asylum obligations. Before the 2015 influx of migrants, the discussion of breaches under the Dublin regulations, were not so much concerned with whether or not asylum seekers were taken care of and being taken responsibility for by the Greek government as a first-entry state, but whether or not one apply for asylum at all. There has been made several accusations that the Greek coast guard purposely denied migrants reaching Greek shores, and instead towed them back to Turkey or illegal deportation once the migrants had already reached Greek shores (UNHCR, 2009:3). These so-called *push-backs* of migrants at sea is not only in violations with Greece's international asylum obligations but with the first-entry principle. The Greek government, regardless of which party was in power, has struggled to fully deliver on their asylum obligations. This despite repeated criticism by the European Commission, UNHCR, and NGOs. This is probably best illustrated with the two landmark decisions issued in 2011 by the European Court of Human Rights Grand Chamber (2011) and the Court of Justice of the European Union (2011) who both point at many breaches of the European Asylum system over many years. The breaches include insufficient information given to the asylum seekers about the procedures, lack of communication and translation, lack of training for the staff, lack of legal aid and long waiting time to receive a decision.

The most defining court case on Greek asylum practices was *M.S.S v Belgium and Greece*. Concerning an Afghan asylum seeker who first entered Europe in Greece and was registered there, before leaving for Belgium and applying for asylum, Belgian authorities made use of the transfer request system and sent the individual back to Greece to process the asylum application there. The problem emerged when the Greek authorities did not provide accommodation, forcing the individual to live on the streets without being provided with any basic needs. The case led to a stop of transfer requests to Greece by other member states, with the exception of family reunification. Transfers were again started up in March 2017, when the Commission opened to allow limited transfer requests as the situation in Greece has improved (European Commission, 2016c). Problems with taking responsibility for asylum seekers and transfer requests has been in clear violation of the Dublin regulations.

After the 2011 court case, Greece with the aid of the EU has taken measures to improve the conditions for refugees and ensure that the Dublin III regulation is better enforced. An important measure taken by Greek authorities and the Commission is the establishment of four Hotspots, which has been vital for Greece being able to register migrants reaching its territory and sorting out asylum seekers (European Commission, 2016f, European Commission, 2016g). The Hotspots are located where the influx of migrants is particularly high, in Greece they are located on the islands of Lesbos, Chios, Samos and Leros with a fifth Hotspot to be established on Kos; these islands are all located close to the border with Turkey (illustrated in map 3). The fact that Greece is processing asylum applications is a major step up compared to the situation a few years ago.

Frode Mortensen (R9), at the *Financial Mechanism Office*, who works with capacity building of Greece's asylum system with funds provided by the *European Economic Areas grants* (EEA-grants)<sup>4</sup> experienced a major shift in recent years concerning Greek practice for informing migrants about their right to apply for asylum: "There has definitely been a change from Greek authorities, who now take more responsibility, especially for unaccompanied children and vulnerable groups." (R9 Mortensen, my translation). It seems that despite the influx of migrants and asylum seekers in 2015, the asylum system has improved.

According to Ann Kristin Hahnsson, National Expert from the Directorate of Immigration in Norway currently working at DG Home: "The Problem in Greece started already way before

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<sup>4</sup> The EEA-grants are provided by Iceland, Lichtenstein and Norway, and provided to projects in 16 EU countries in order to reduce economic and social skewness in Europe.

the influx, but the influx made it a lot worse. At the same time, it is during the influx they have managed to do the improvements.” (R8 Hahnsson). At first, this seems to be a major contradiction, how a dysfunctional asylum system was able to improve in a time of increased numbers of asylum seekers. Elina Pietilainen, also at the DG Home, mentioned how the pressure from the Commission has been important in Greece’s improvement of its system: “Yes, because we [the Commission] have pushed them. Indeed, the system was not smooth before the influx.” (R7 Pietilainen). It is difficult to assess exactly how important pressure from the Commission has been in regards to making Greece reform its asylum system. There was pressure from the Commission before 2015 as well, but the influx made the calls for reform more pressing – this in combination with greater aid from the EU through the establishment of Hotspots has been essential in helping Greece enforcing the Dublin Regulations.

An important burden-sharing component is the relocation programme, established by the Commission in 2015 to relieve Greece and Italy’s asylum system, by resettling asylum seekers to other member states (UNHCR, 2015). The goal was to involve all member states in burden-sharing and resettle 160,000 asylum seekers from Greece and Italy, as announced by the President of the European Commission, Jean Claude Juncker (2015). Despite an ambitious resettlement scheme, the number of relocated asylum seekers is so far beneath the goal, as of February 2017, there had been just under 14,000 relocations (European Commission, 2016f). Regardless of the number of relocated asylum seekers being considerably lower than the goal, the Commission argue it has helped Greece manage the situation better. “It [the relocation programme] has indeed relieved Greece from pressure is starting to be more successful and more and more people are starting to be relocated,” (R7 Pietilainen). It is challenging to evaluate if the relocation programme has contributed in making the Dublin system more manageable for Greece. The numbers are low and we know that most of the migrants do not apply for asylum in Greece anyway. The relocation scheme may prove as an important scheme in the future, when the Commission in their proposal for a reformed Dublin system has included a more ambitious relocation scheme where asylum seekers are distributed among member states based on GDP and population size, but for the moment the effect is minimal (European Commission, 2016j).

Besides the establishment of Hotspots and the relocation programme, what seems to be equally important in Greece’s case, if not more in enforcing the Dublin III regulation is the EU-Turkey statement. In 2016, the leaders of the European Council and their Turkish counterpart agreed on measures to stop irregular migrants crossing between Greece and Turkey (European Council,

2016). All illegal migrants arriving in Greece are returned to Turkey, for every illegal migrant returned, another asylum seeker would be resettled in the EU. The logic was to discourage illegal and dangerous travel between Turkey and Greece, while at the same time promoting a legal alternative. In return, the EU would pay for refugee relief in Turkey and speed up the process of visa liberalisation for Turkish citizens in the EU. The statement has reduced the number of illegal migrants arriving in Greece substantially. Before the statement took effect, the average daily crossing between Turkey and Greece was 1,740, after the statement, the number of daily arrivals has been reduced to 94 (European Commission, 2016h). Elina Pietilainen (R7) from DG Home agrees with the success of the EU-Turkey statement also when considering fewer losses of human lives making the journey:

“It has been a success from the point of view, indeed, the number of people coming from Turkey to Greece has dropped dramatically. There were thousands per day in 2015. Now it is less than a hundred per day. And consequently the loss of lives have been much less, so indeed, in that sense, it has been successful.”

The EU-Turkey statement has done more than anything to reduce the number of arriving migrants in Greece, and thereby reducing the number of asylum seekers. It has been vital in allowing Greece to uphold its obligations, as it has been easier with the reduced arrivals. The statement in combination with the Hotspots and to a limited degree the relocation programme have made the situation for Greece much more sustainable, allowing better enforcement of the obligations of registration and asylum procedures under the Dublin regulations.

The number of arriving asylum seekers has had a major impact on Greece's ability to uphold its obligations under Dublin. Although Greece already struggled with limited numbers of asylum seekers, at the start of the 2015 influx, the issues already present in the asylum system, became much more apparent. With the reduction of arriving migrants following the EU-Turkey statement, Greece's ability to ensure correct enforcement of Dublin was made much easier. There also seem to be indications that the increase in 2015 put more adaptational pressure on Greece and the EU to do something about the situation. The hypothesis concerning the number of asylum seekers is strengthened.

## 7.2 Veto players

Until the late 2000s, the unicameral Greek parliament remained a stable two-party system driven by consensus and mutual understanding (Tocci, 2011:122-123). The two major parties in Greece at the time; PASOK, the centre-left party and New Democracy, the centre-right party; who have both been the major government party or main opposition since the establishing of the Third Hellenic Republic in 1974. The common criticism during this time, as previously discussed, was the lack of compatibility between human rights commitments under the Dublin regulation and UN obligations, and the Greek practises of actively turning down asylum applicants and forcing migrants to return back to Turkey. Greek authorities have struggled and failed to comply with human rights standards despite opposition and criticism from the European Commission and the European Court of Human Rights (European Commission, 2014a). According to Jonathan Golub (1996), member states who dislike certain European policy will often try to reduce the impact of European legislation, which in turn results in non-compliance. This may be the case for Greece in this time period, since there has not been any significant domestic opposition to the Dublin regulation, but rather a lack of willingness by the government to comply with the regulation.

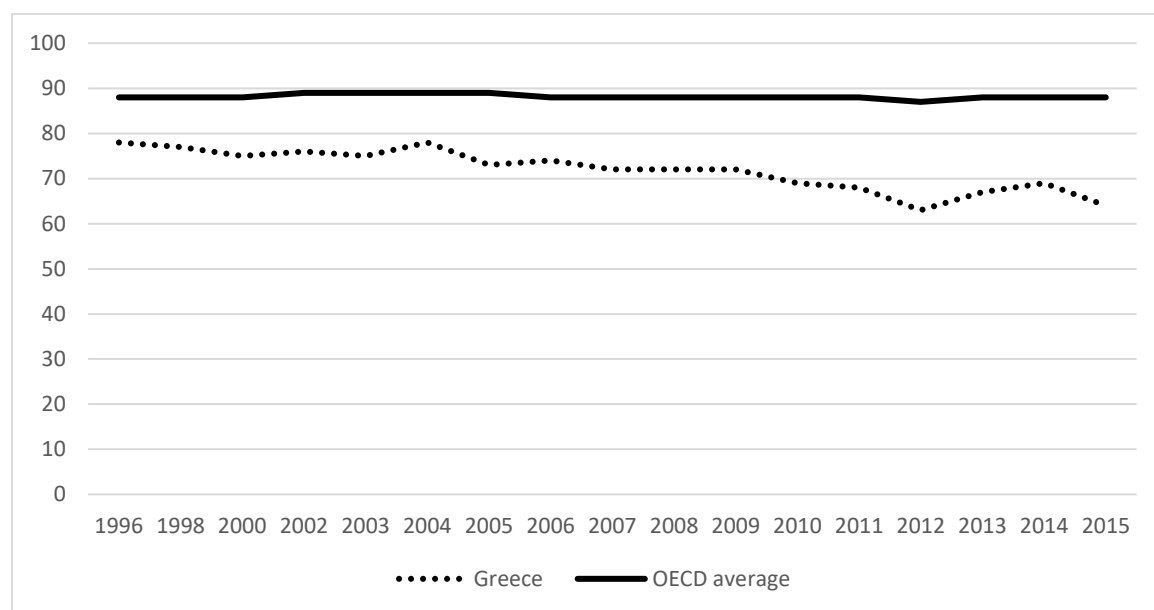
Following the financial crisis and widespread criticism of economic management by the two traditional centre parties led to the election of the left-wing Syriza party in 2015. This has upset the traditional consensus driven parliament and politics. The same year the Syriza party took office, the so-called “migration crisis” or “influx” became one of the government’s major challenges, seeing a considerable increase of migrants reaching Europe. The increased number of migrants tested an already weak Greek asylum system and made it clear for both the Syriza government and the EU the need for reform. Strengthening of the asylum system in combination with the relocation programme and later the EU-Turkey statement became part of the reform process. The change of government from a centre-right government to a far-left government, in combination with increased pressure from the EU, has resulted in considerable changes in the asylum system and border control. In 2015, the Greek government with support from the UNHCR took action to create additional reception capacity for 20,000 people and speed up the process for asylum seekers (European Commission, 2015). A 2016 recommendation report by the Commission, acknowledges the advancements Greece has taken in improving the Asylum system, although there are still many “insufficiencies” when it comes to the standard of the reception centres (European Commission, 2016b).

Despite a shift in policy following a new political party in government, there does not seem to be any organised resistance from veto players against the Dublin regulations in Greek society. This is in stark contrast to the assumption in Europeanization theory, where veto players have an important role in explaining implementation. The veto player hypothesis is weakened in Greece's case.

### 7.3 State capacity

According to the Worldwide Governance Indicator on Government Efficiency (GE) (indicator discussed in section 3.3), Greece scores consistently under the OECD average in the time period the Dublin regulations have been enforced (Figure 10). While the OECD average has been stable over time, scoring consistently around 88 out of 100 points, Greece scores consistently lower with 78 being the highest score. The score has also slightly decreased over time, in 2015 scoring as low as 64.

**Figure 10: Average Government Efficiency in OECD compared to Greece**



Source: (Worldwide Governance Indicators, 2017)

Although the general efficiency of the state apparatus in Greece seems to fall slightly, measures have been taken to improve the asylum system. Up until 2013, the Ministry of the Interior and the Greek police was responsible for the asylum system in Greece (Tsipoura et al., 2015:20).

At the time, the police was responsible for border protection as well as managing asylum applications. A major issue was the systematic lack of registration of asylum applications, even reports of police refusing refugees to seek asylum (Tsipoura et al., 2015:23). According to Frode Mortensen at Financial Mechanism Office, there were regular complaints and issues with the police having the full responsibility for asylum: “The police was criticised for their interviews and meeting with asylum seekers were too poor, today we rarely hear these complaints. I never hear about [issues at the] Asylum Service” (R9 Mortensen, my translation).

The Asylum Service was established based on the 2011 *Law 3907/2011* and *Presidential Decree 113/2013*, which turned the responsibility for asylum from the police to a civil agency (Greek Government, 2011, Refworld, 2013). Asylum Service together with the Greek Dublin Unit now have the full responsibility for asylum applications and asylum seekers. Their central office is located in Athens while at the moment there are six Regional Offices distributed on islands and areas where most of the migrants enter Greece, they share competence with all issues concerning the Dublin III regulation, as well as provide administrative support for the Appeals Authority, tasked with managing appealed Dublin cases (Ministry of Citizen Protection, 2012). Moving the authority from the police to a civil authority has resulted in better implementation of the Dublin III regulation according to a report on the Greek asylum system from the Asylum Information Database (Tsipoura et al., 2015). This is not to say there are still occurring problems, especially when coming to transfer requests, the report points to the lack of staff as a key issue in ensuring adequate transfer requests (Tsipoura et al., 2015:49).

The system where the police having the responsibility for asylum is referred to as the *old procedure* and was the common procedure until June 2013. After the transfer to the civic system, called the *new procedure*, the implementation of Dublin has become more successful. That is not to say there are not still issues, one of them raised by NGOs and UNHCR concern the personal interviews conducted by Greek authorities (Tsipoura et al., 2015:37-38). Especially under the old procedure with a lack of interpreters and quality of interviews. Under the new procedure, this has been improved but there are still issues regarding the confidentiality of the personal interviews.

A major problem following the 2015 influx of migrants was the process time for applications and long queues outside the Regional Asylum Offices for migrants wanting to register for asylum. In order to improve the situation, the Greek Government implemented a fast-track processing for Syrians, which allowed asylum claims to be registered and decisions made the same day (Tsipoura et al., 2015:26). According to the Commission’s report about the

implementation of the Dublin III regulation, the reorganisation of the asylum system with the Police turning responsibility for migrants to civic institutions has led to improvements such as shorter waiting time, fairer treatment of applications and improves conditions at the reception centres (Jurado et al., 2016:4-5). Although there has been an overall positive response to the work conducted by the Asylum Service and the Dublin Unit, there also seems to be some bureaucratic issues, particularly when it comes to the number of staff. Although, as Mr.Camilleri (R1) explained how EASO has been helping the Greek government, providing experts to cope with the situation:

“Currently we are supporting member states, in particular, Italy and Greece and their Dublin units. When you send experts to help countries, the situation changes and certain misunderstanding are resolved, it does not change it completely but definitely helps address it more”.

Mr.Camilleri’s comment is also reflected by the European Commission’s own recommendations and the European Council on Refugees and Exiles annual country report (Tsipoura et al., 2015:20, European Commission, 2016b:6-7). They both point out that regional reception centres have lacked sufficient number of staff in order to register and process asylum applications.

The formal infringement procedure was taken by the Commission in 2006, as Greece was failing to comply with the Dublin II regulation (European Commission, 2017a). The Letter of Formal Notice was the first step, but as Greece still failed to address the issues, a reasoned opinion was delivered in 2007. In 2008, the most severe step was taken when the infringement case was referred to the Court of Justice of the European Union. The court case *Commission v Greece* resulted in the court siding with the Commission, further applying pressure on the need for change in Greece (Condou-Durande, 2008). The infringement case in combination with the suspension of transfer requests shows how grave the situation was in Greece, and the enforcement has been lacking. In no other member state has the transfer system been forcibly halted by the European Court of Human Rights. Greece has, therefore, had exceptional low enforcement of the Dublin regulations.

In order to aid Greece with the financial cost of being a first-entry country, the Commission finance asylum programmes, refugee protection and border control through the *Asylum Migration Integration Fund* (AMIF) and the *Internal Security Fund* (ISF) (European Commission, 2016a, European Commission, 2017d). All member states except Denmark, who



does not participate in the AMIF, contribute to the funds that in turn is distributed to governments, local authorities and NGOs. Greece and Italy are net beneficiaries of the funds, in many ways the funds are regarded as solidarity measures by richer member states to first-entry countries, who are responsible for the majority of migrants. The Commission is the biggest contributor, but other institutions like UNHCR, individual member states and many NGOs have invested in the Greek asylum system outside the two funds, especially since 2015. Despite the funds provided, Greece has not taken full advantage of the financial resources allocated, suggesting that money is not a main concern for lack of implementation (Howden and Fotiadis, 2017). There are no official figures for how much money has been spent in Greece as a result of the migrant influx, but Commissioner Avramopoulos has stated over €1 billion has been provided to aid Greece (Avramopoulos, 2017). This number is contested by the media oversight organization, Refugees Deeply, who calculated the amount to be \$803 million since 2015 when all funding is combined (Howden and Fotiadis, 2017). Regardless of which figure is closer to reality, it represents a tremendous amount of financial aid, which certainly has contributed to establishing a more effective asylum system. At the time, there is no detailed information on the use of these funds.

As in Spain and Italy, the state capacity is important in explaining implementation in Greece. The Greek system was for many years not capable of fulfilling the obligations set by the Dublin regulations, but with recent resources and pressure from the EU, Greece has adjusted its system, improving its state capacity. This, in turn, has made the implementation of Dublin better, and strengthened the state capacity claim under the Europeanization theory.

## 8 Comparison and discussion

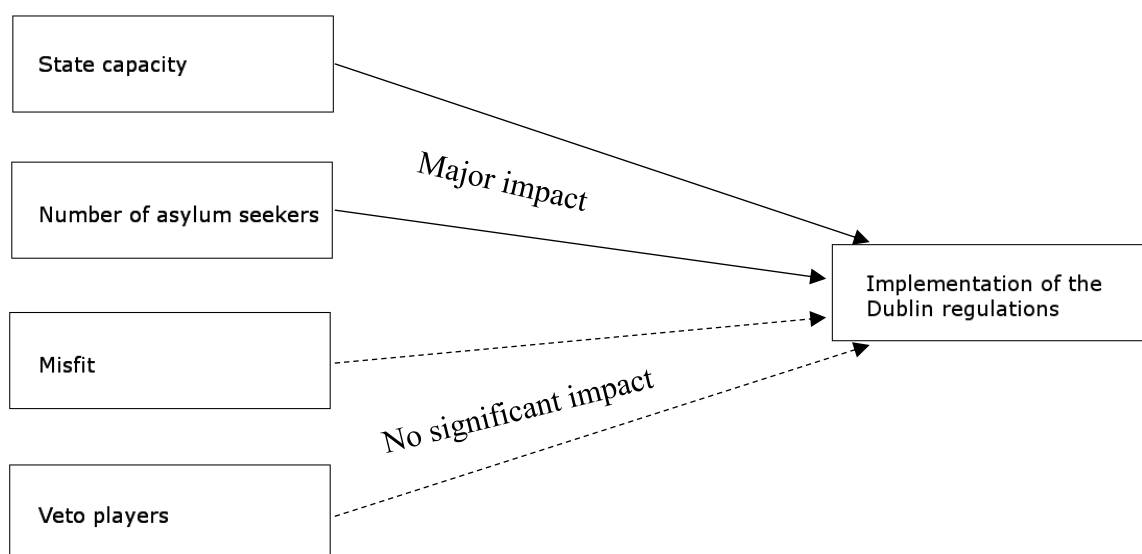
This chapter summarise the main findings from the empirical chapters and compares the case countries. First, the degree of Europeanization in each of the member state is discussed. Later a model summarizing the explanatory power of the independent variables is presented. In light of the empirical evidence, state capacity and number of asylum seekers can explain the dependent variable, while misfit and veto players cannot. The evidence suggest that Europeanization is not well suited to answer the research question. The Worlds of compliance typology is revisited, and deemed unfit in my research. Finally, some of the limitations of the master thesis is discussed.

Of the four possible outcomes from Europeanization (presented in section 2.2): *Inertia*, *absorption*, *transformation* and *retrenchment*. Absorption seems to be the change in all three case countries. The countries have implemented it to a varying degree with non-compliance being a result of non-voluntary reasons as opposed of deliberate attempts as seen in inertia. The changes do not mark a transformative change either, as there is no paradigm shift. Instead, policy changes based upon the same principles of human rights and the right to seek asylum. Retrenchment happens if a member state moves further away from EU laws, this is certainly not the case.

Although there has been a common absorption by the case countries, there are differences concerning the degree of implementation: In Spain, the implementation has been very successful with minor issues. In Italy, there are some issues concerning lack of information to asylum seekers, lack of interpreters, and some issues with transfers such as problems with appealing one's case. However, the first-entry principle is respected and followed by Italian authorities with a high registration rate of arriving migrants in recent years. Greece, on the other hand, has had significant issues with several issues concerning human rights and ability to register and handle migrants and asylum seekers, the suspension of the transfer system being the most severe example of the lack of enforcement to the obligations. Spain has a very high rate of implementation, so does Italy, but with some issues, Compared to Greece, which has had severe issues.

Based on the information in the case chapters, I have made model 1 to visualize the impact of the four independent variables on the dependent variable. The impact of the different variables is the same across the three case countries:

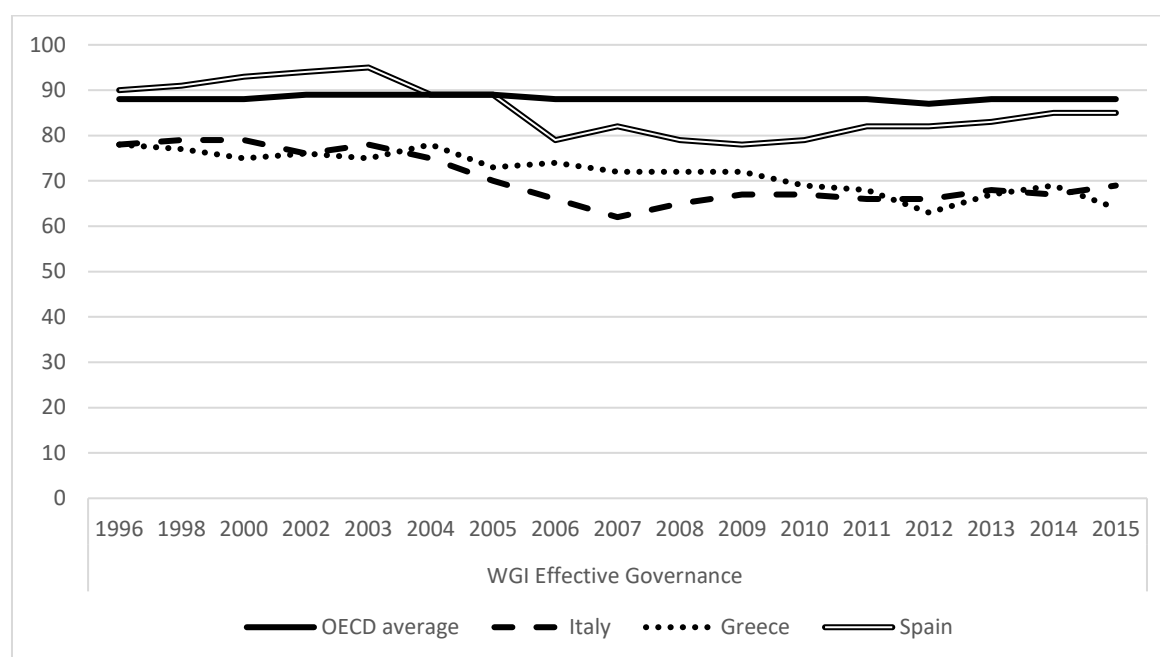
### Model 1: The four independent variables impact on the dependent variable



In my thesis, state capacity has proven to be the most important variable to explain the implementation of the Dublin regulations. This is line with Falkner et al. (2008) and Falkner et al. (2005) findings, state capacity is a much better variable to explain variation among member states than misfit or veto players. Falkner and her team investigated implementation and showed the countries with low state capacity and administrative power are the ones with lowest rate of compliance.

The empirical evidence suggest that Spain has a strong administrative capacity on asylum issues. The asylum system in Spain is well structured for the task, able to uphold the obligations under Dublin. The strength of the Spanish state capacity is further supported with the high score on the Government efficiency index. This is contrast to Italy and Greece's lower score on the GE indicator (see figure 11). This is in line with the Commission's report, which suggest issues in both the Italian and Greek asylum systems (Jurado et al., 2016). However, both countries with the aid of the EU, has in recent years improved their system and worked towards full compliance with the Dublin III regulation.

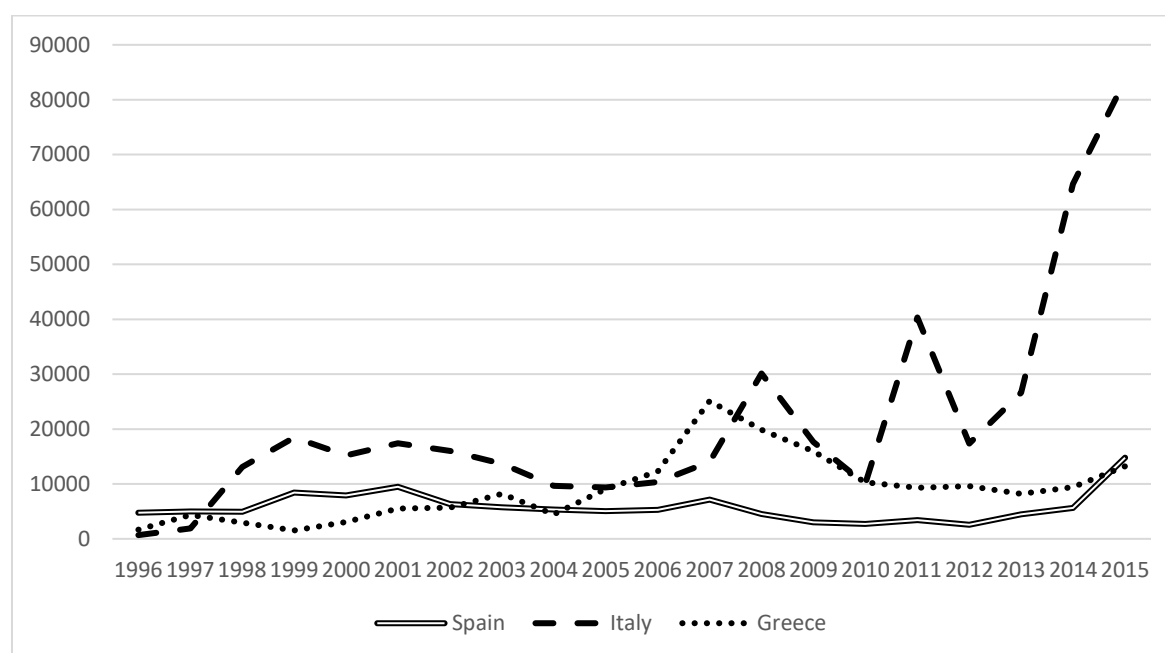
**Figure 11: Government efficiency in Italy, Greece, Spain, and the average in OECD**



Source: (Worldwide Governance Indicators, 2017)

Although Italy and Greece are ranked almost the same on the effective governance index and both have similar issues with their asylum system. They still have significant differences on implementation, in other words, state capacity is not a sufficient variable to understand the degree of variation in implementation. In this sense, the number of asylum seekers is an important factor. Spain has on average received the lowest number of asylum seekers among the case countries in the period since the introduction of the Dublin convention in 1997 (Figure 12). This, in combination with high state capacity is the most important reason for Spanish compliance with the Dublin regulations. Italy is on the other hand the country in the EU with most asylum seekers, especially since 2011 there has been an enormous increase following the Arab Spring (Eurostat, 2016b). This, in combination with lower state capacity than Spain has made implementation more difficult.

**Figure 12: Total number of asylum seekers in Spain, Italy and Greece**



Source: (Eurostat, 2016a)

In Greece, where the implementation has been the most challenging throughout the Dublin regulations. Since 2011, the number of asylum seekers has been lower than that of Italy, and on average lower than in Spain. This indicates that implementation is not necessarily determined by the net number of asylum seekers. It is only when we compare the number of asylum seekers to the population size and the size of the economy the picture becomes clearer. It is not only about the total number of asylum seekers arriving in each country, in fact, the Commission in their proposal for a quota system suggests that asylum seekers should be distributed based on population size and GDP (European Commission, 2016j). The Greek economy is much smaller than that of Spain and especially Italy (see table 7). If we look at the number of asylum seekers divided by the population, Spain has by far the lowest number of asylum seekers compared to the population. Greece has a significantly lower density of asylum seekers, but not as low as Italy. This helps us understand why there are more issues with implementation in Italy and Greece compared to Spain. If we also consider the size of the economy, it is easier to understand why Greece has the worst level of implementation of the case countries.

**Table 7: Asylum seekers divided by population and GDP in 2015**

Country	GDP in 2015 (USD)	Number of asylum seekers divided by the population in 2015
<b>Spain</b>	1,2 trillion	1 asylum seeker per 3120
<b>Italy</b>	1,8 trillion	1 asylum seeker per 728
<b>Greece</b>	195,2 billion	1 asylum seeker per 819

Source: (Eurostat, 2016a)

The most surprising finding is not the importance of state capacity or the number of asylum seekers – better state capacity and lower number of asylum seekers definitely improve implementation. The lack of importance for misfit and veto players are more surprising. Both misfit and veto players are considered the main composition of Europeanization theory but seem to bear little relevance in explaining the implementation in all the three case countries.

The level of misfit seems to be approximately the same in all three cases at the point the Dublin convention became applicable in 1997. All the three countries had the same foundation being signers of international humanitarian commitments such as the UN's Convention Relating to the Status of Refugees and the European Convention of Human rights; already committed to the protection of refugees and ensuring rights of asylum seekers, which is also a part of the Dublin regulations. The human rights aspect of asylum was already implemented and had a strong tradition in the countries; this made the transition to the Dublin framework easy, as there was a common path dependency.

Path dependency not only made the transition from a national to a European asylum system easier in 1997 but also made the transition into Dublin II and Dublin III easy, as they build upon existing legislation. However, what was new with the Dublin system was the first-entry principle. This led to a moderate degree of misfit, but there is no evidence that the adaption to Dublin was substantially different in the three cases. They all had similar asylum laws and infrastructure before the Dublin system was implemented. Spain, Italy and Greece therefore experienced approximately the same amount of misfit. They did not have major difficulties with the initial implementation either, this has much to do with the limited number of asylum seekers arriving at the time. Misfit cannot explain the degree of implementation, partly because the level of misfit was similar between the three member states, and partly because the initial implementation was quite successful.

According to the founder of the veto player argument, Tsebelis (2002), the ability of a state to implement new reforms decreases with a higher number of veto players who can potentially hinder its implementation. There are several veto players in Spain, Italy and Greece. However, there are no indication that any veto players have in any way obstructed the process of implementing the three Dublin regulations. There does not seem to be any organised resistance towards implementing Dublin, whether from important political parties, unions or NGOs. That does not mean that a common European asylum policy is not at all controversial. Far-right political parties may pose as future veto players against further integration on the field and subsequently the Dublin system.

Despite the controversy on migration and asylum policies, especially following the influx of migrants in 2015 it does not seem to have encouraged veto players to call for changes in the Dublin regulations as of yet. This is in clear contrast to the presumption in Europeanization theory, which highlights the interests of veto players as an important way to determine implementation of European law. In the case of Dublin, the findings indicate that no veto players are involved. This might be explained by the nature of the law, as it is usually unions and business interests that play the role of veto players, but their interests are not directly impacted by the Dublin regulations, which is a legislation between the state and asylum seekers, not involving other parts of society. Veto players seem to carry a much more important role in for example the Packaging Waste Directive (Haverland, 2000:100) where business actors were directly impacted and therefore took action against the reform.

### **8.1 Revisiting the four Worlds of compliance**

The thesis has showed that the two main components of Europeanization: Misfit and veto players, does not have a major impact on the implementation of the Dublin regulations. On the other hand, state capacity, another theorised part of Europeanization has been important. The theory does not take into account the number of asylum seekers, which has proven to an important explanatory variable. As presented in section 2.7 the Worlds of compliance typology has been suggested in order to understand different policy implementation traditions in different countries. How does the typology hold up when trying to understand the implementation of the Dublin regulations?

The typology by Falkner and Treib (2008) assumes that Spain belongs to the world of domestic politics – compliance with EU law has a high importance, but if there is a major gap between

national priorities and the EU, the domestic issue takes precedence. In Spain, the level of compliance with the Dublin regulations is good, but at the same time the regulations have not challenged the national issues in a major way, it is therefore hard to predict what would have happened if that was the case. It does, however, seem most fitting to put Spain under the world of domestic politics.

In the typology, Greece is part of the world of transposition neglect – National preferences come before EU law. EU law is then usually ineffectively transposed, due to either poor administrative capacity or simply lack of trying. It is also the case that the countries under this classification usually carry out their obligations eventually, if the Commission takes steps to ensure it, such as the infringement procedure. This classification seems to fit well with asylum policy. There have been some issues with transposition, but Greece has increasingly improved its compliance, so much so that the transfer requests from member states to Greece has resumed in 2017.

Italy, on the other hand, is classified under the world of dead letters. This is when the law itself may be transposed on time, but the enforcement of the actual obligations is not sufficiently enforced. In addition, the political will is usually there, but the administrative resources remain an obstacle for better implementation. I would argue in the case of the Dublin regulations that Italy does not fit well under this classification. Instead, it belongs to the world of transposition neglect. Although the differences between the categories may seem ambiguous, there is an important difference. In the world of transposition neglect, a member state usually enforces the regulation because of pressure by the Commission. This seems to be the case in Italy.

The evidence for the typology is mixed, two of the case countries – Spain and Greece seems to fit its category, but the same cannot be said for Italy. The explanatory power of the world of dead letter deviates in the Italian case, where the performance is better than what is suggested in the typology. The only fair conclusion is therefore that the typology does not have sufficient empirical evidence to help us in understanding the Dublin regulations. This does not necessarily mean that the typology by Falkner and Treib (2008) should be discarded, it may still bear some relevance for other policies, asylum policies or with some modification even the Dublin regulations, but as it currently stands it is not valid for my cases.



## 8.2 Limitations of the master thesis

While there has been plenty of information concerning enforcement of the Dublin III regulation in light of the Arab Spring in 2010 and especially after the Influx of immigrants in 2015, there is not much information available of the enforcement from earlier years, especially for the Dublin Convention 1997-2003. This has a lot to do with the recent year's events and its impacts on the asylum system, and the controversy surrounding the legal framework. How the EU is dealing with asylum issues and migration has become a topic for discussion on the highest political level. However, the lack of information from earlier periods of the Dublin regulations has made the process studying this challenging. The information about misfit when transposing the original Dublin convention has been especially difficult to acquire, and those involved in transposing the convention are no longer working on asylum.

Finding and setting up interviews has proven a difficult process. The most unfortunate part was not being able to acquire an interview with representatives from Spain. The chapter about Spain is, therefore, lacking the same empirical source material compared to the two other case country chapters. Most of the interviews that were conducted proved fruitful and provided information that I would not have acquired elsewhere. But parts of the information provided, I have not been able to verify due to the lack of other sources. This has led me to exclude some of the information that is more speculative in nature. Respondent 4 chose to remain anonymous and did not want to be recorded. The information provided in this interview is therefore only used as background information for the chapter about Greece. Respondent 2 chose to remain anonymous but did allow for the recording and inclusion in the thesis. The other interviews were conducted with staff members in various institutions in the EU and public servants from Greece and Italy.

Although the interviews have given me insight into the Dublin regulations and their implementation that I would otherwise not have gained, there is the potential of bias on the part of the interviewees and my own perception of events since no non-state or non-EU actors have been interviewed. Various NGOs have declined or not found the time for such interviews. This has a lot to do with the premise of the thesis, as most asylum NGOs are concerned with human rights and refugee rights, while my thesis is concerned with the implementation of EU law. Therefore, the selection of interviews are somewhat skewed. I have kept that imbalance in mind and tried to adjust for it.

Another difficult task was to find information related to the uploading phase for the different member states, as little information is available regarding the political process that leads to a

common European asylum system. There is also the issue of getting interviews with those involved at the time. As a result, most of the empirical evidence presented is of recent years events, as more information is available and those working on asylum today were involved.

While this thesis looks at the implementation of the Dublin regulations in three case countries and can help understand them better, there is little in terms of external validity, especially since the Worlds of compliance typology is not strengthened. Another methodology and research design such as a quantitative large N study would shed different knowledge and allow for better external validity. However, considering my research question and my interest in three specific case countries, the current case study is superior.

## 9 Conclusion

By using Europeanization theory, I have sought to investigate how the Dublin regulations have been implemented across the three case countries, and how they differ. I have formulated four main hypothesis, three of them based on the theory literature: Misfit, veto players, and state capacity, as well as an independent variable that seemed relevant for the Dublin regulations, in particular, the number of asylum seekers. To investigate the hypothesis, I have conducted semi-structured interviews with relevant EU and national actors, and document analysis of relevant EU documents and third party reports concerning asylum procedures. The result from all three case countries, that two of the hypothesis have a great deal of explanatory, while two of the hypothesis carry no significant impact on the dependent variable.

H1: The more misfit between a member state's national practices and the Dublin regulations, the faultier the implementation of the Dublin regulations.

Misfit, although important in the literature, is not of any significant importance in Spain, Italy and Greece. One of the reasons for this is the fact that the misfit in none of the three case countries had major misfit when implementing the Dublin regulations. The other reason being that misfit was about the same level in all the case countries. It is therefore not a variable that can help us understand the differences, despite its importance in Europeanization theory.

H2: The more veto players there are, the faultier the implementation of the Dublin regulations will be.

The number of veto players does not influence the implementation either, despite some variations among the countries, there was no evidence for any veto players resisting the Dublin regulations in any way. This can be explained by the fact that the regulations do not affect the interest of typical veto players such as business organisations and unions. Dublin is a legislation between the state and asylum seekers without substantially affecting other interests in society. Most of the legislation that has been investigated by using Europeanization theory, other non-state actors are usually impacted and therefore more likely to resist change.

H3: higher numbers of asylum seekers makes implementation of the Dublin regulations more difficult.

The number of asylum varies between the three case countries and in the end, did impact the implementation. Spain, with the lowest average of asylum seekers, had an easier time with implementing the Dublin regulations and therefore also had a better implementation. This is in

contrast to Italy, which has the highest number of asylum seekers in the European Union. Greece, although not nearly as high a number as Italy, does have a high number compared to the population size and GDP.

H4: The better state capacity a member state has, the better the implementation of the Dublin regulations will be.

The last and most important variable in explaining variation among the case countries has been state capacity. The hypothesis is correct, where Spain has a superior state capacity and subsequently leading to better implementation. The implementation is worse in both Greece and Italy.

The Europeanization theory does lack the explanatory power to explain implementation, Falkner et al. (2007) suggested that the theories may be obsolete and therefore suggested the Worlds of compliance typology as a better way to understand implementation. However, as discussed in the previous chapter, my results do not reflect the typology, instead, ending up with mixed results that do not strengthen it.

### **9.1 Suggestions for further research**

This thesis is a first attempt in trying to understand the implementation of the Dublin regulations, a policy that is of major political discussion, but academically almost untouched. There are therefore many ways to pursue academically on the subject.

This thesis concerns three case countries: Spain, Italy and Greece. Although Italy and Greece are the two case countries with the most challenges, many other Dublin countries would also be of interest. There is to my knowledge no academic research on it, especially in light of the influx of migrants in 2015. Hungary, Macedonia and Bulgaria have all put up border defences between third-countries, but also between EU member states such as Greece (BBC, 2015a, Lyman, 2015, Associated Press, 2015). This is in clear violation with the principle of free movement set up in the Schengen agreement, but Hungary for instance also refuse to take back asylum seekers originally entering their territory, a clear violation of the Dublin III regulation. All of these decisions have put the entire regulation in jeopardy and would make for interesting case studies in a similar comparative study. With political discussions on reforming the Dublin III regulation, information on how the regulation is implemented and what reforms should be

taken should not be reserved for politics; academics as well should contribute in the discussion and conduct research that can be helpful in establishing a functional asylum system.

There are also other non-qualitative analysis that can be done, such as a large N study with all member states obliged to the Dublin regulations, allowing for a more comprehensive understanding of the entire Dublin framework. Although I have used the variables in the Europeanization theory, one cannot disregard other variables that might have an effect on implementation such as political parties in government or Euroscepticism in the population. There is definitely room to investigate if other variables have had an influence.

Although the Worlds of compliance did not fit my three cases, it does not mean that the typology should be discarded that easy, with more cases the typology may be adjusted to also fit with the understanding of Dublin, or maybe asylum as a whole. Further research is needed to establish identify the typology's usefulness.

The Dublin regulations represent an important but still just a part of the vast system that is asylum policy in the EU. There is definitely room for more academic literature on the EU's asylum system and the implementation of different EU policies in member states. Europeanization theory, although known in European Studies, has not gained significant scholarly attention compared to that of integration theory. In my thesis two of the most important variables: misfit and veto players did not help explain the implementation of the Dublin regulations, weakening the theory. There is definitely room for more research using Europeanization in the field of asylum policy in order to seek out if it is able to explain other asylum related legislations apart from Dublin or if the theory should be discarded. In any case, more research on the area is needed.

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## Interviews

### Interview 1

Respondent 1 (R1): MARK CAMILLERI, Advisor to the Executive Director –European Asylum Support Office.  
Skype interview 01.02.17.

### Interview 2

Respondent 2 (R2): ANONYMOUS STAFF in the Directorate-General Justice and Home Affairs in the Council of the European Union.  
Respondent 3 (R3): PAULO OLIVEIRA, Head of Unit – External Relations, Asylum and Migration in the Council of the European Union.  
Personal interview in Brussels, 08.02.17.

### Interview 3

Respondent 4 (R4): GENNARO CAPO, Councillor for Immigration, Borders, Asylum and Visa - Permanent Representation of Italy.  
Personal interview in Brussels 10.02.17.

### Interview 4

Respondent 5 (R5): ANONYMOUS STAFF in the Greek Ministry of the Interior.  
Personal interview in Brussels, 13.02.17.

### Interview 5

Respondent 6 (R6): NIKOLAOS LAMPLAS, National Civil Servant – Greek Dublin Unit.  
Skype interview 10.04.17.

### Interview 6

Respondent 7 (R7): ELINA PIETILAINEN, Legal Officer at the Asylum Unit - DG Home.  
Respondent 8 (R8): ANN KRISTIN HAHNSSON, National Expert – DG Home.  
Personal interview in Brussels 16.02.17.

### Interview 7

Respondent 9 (R9): FRODE MORTENSEN, Senior Sector Officer for Justice and Home Affairs – Financial Mechanism Office.  
Respondent 10 (R10): TAMÁS POLGÁR, Country Officer for Cyprus, Greece and Slovakia – Financial Mechanism Office.  
Personal interview in Brussels 17.02.17.

### Interview 8

Respondent 11 (R11) MONICA DELL'ATTI, National Civil Servant – Italian Dublin Unit.  
Respondent 12 (R12) JESSICA VILLA, National Civil Servant – Italian Dublin Unit.  
Skype interview 21.03.17.

## Appendix

### Interview guide

#### Introduction:

- What is your position and responsibilities at your institution?
- What does your institution do?

#### Current situation:

- How is the situation for asylum seekers that arrive in your [country]?
- Is your [country] able to fulfil its obligations under the Dublin III regulation? Are there any challenges with fulfilling the obligations?
- How has your [country] dealt with the situation in light of the so-called 2015 “influx of migrants”? How was the situation before the “influx”, was [country] able to fulfil the Dublin regulation then?
- In your view, is the Common European Asylum System working as intended at the moment?
- A reform of the Dublin regulation is currently being discussed in various EU institutions and member states, what changes would you want to see in the reformed proposal?
- In your opinion, will the reformed regulation ensure better compliance of the Dublin ruling in Member States, particular in Spain, Italy and Greece?

#### State Capacity:

- *(For Commission only)* As the Commission is tasked with monitoring the implementation of the Dublin regulation, in the Commissions view, are member states doing enough to enforce the Dublin regulation? Why/why not?
- *(For EU institutions)* Are member states doing enough to uphold the Dublin regulation?
- Does [country] have enough resources (both financially and with human resources) to enforce the Dublin regulation?
- How has the EU and other member states helped [country]?
- *(only for the Greek and Italian Dublin Unit)* Is the Greek/Italian Dublin Unit well enough organized?

**Misfit:**

- (*For EU institutions*) Are there any member states today that struggle with complying with the regulation? Are Spain, Italy or Greece among them?
- (*to countries only*) To your knowledge, how was the [country] asylum system functioning before the introduction of the Dublin Unit?

**Influential players:**

- Is the Dublin system controversial in [country]?
- Is there resistance against the system by any of the major political parties, unions or other important parts of [country] society?

**Number of asylum seekers:**

- Do you see the number of asylum seekers as a factor in implementing the Dublin regulations? If so, in what way?
- Has the readmission agreement or statements between the EU and third-party countries, such as the statement with Turkey been impactful in reducing the number of asylum seekers coming to Europe?

**Concluding:**

- Is there anything else you would like to talk about that we have not yet covered?
- Finally, are there any other people I should contact for this research project?